

# Consultation on Amendments to the Pension Rules for Occupational Retirement Schemes issued under the Retirement Pensions Act

Ref: 11-2019

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Closing Date: 12 August 2019

**NOTE:** The documents circulated by the MFSA for the purpose of consultation are in draft form and consist of proposals. Accordingly, these proposals are not binding and are subject to changes and revisions following representations received from Licence Holders and other involved parties. It is important that persons involved in the consultation bear these considerations in mind.

## 1.0 Purpose

- 1.1 The MFS is in the process of transposing 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) (recast), (the “IORP II Directive”). On the 22<sup>nd</sup> October 2018, the MFS published a [Consultation Document](#) on the proposed amendments to the Retirement Pensions Act (“the Act”), (MFS Ref: 14-2018). The Consultation highlighted the main changes proposed to be carried out to the Retirement Pensions Act (Cap. 514), as a consequence of transposing the IORP II Directive. The said Consultation closed on the 16th November 2018. Furthermore, on the 4<sup>th</sup> February 2019, the MFS published a [Consultation Document](#) (MFS Ref: 02-2019) on the proposed amendments to regulations issued under the Act. The said Consultation closed on the 25<sup>th</sup> February 2019. Following the aforementioned consultations, no feedback was received from the market.
- 1.2 In order to complete the transposition of the IORP II Directive, various amendments are being made to the Pension Rules for Occupational Retirement Schemes. The purpose of this consultation is to highlight the proposed amendments to such Pension Rules. The proposed amendments transpose the remaining provisions of the IORP II Directive, which have not been included in the Act and regulations issued thereunder. The amendments also align the Pensions Rules for Occupational Retirement Schemes with some of the requirements that have been introduced in the Pension Rules for Personal Retirement Schemes.
- 1.3 The proposed draft Pension Rules for Occupational Retirement Schemes, the Appendices 2 to 5 and the new Appendix 14 to the said Rules are being issued for consultation together with this Consultation Document.
- 1.4 Any comments and feedback in relation to the draft Pension Rules for Occupational Retirement Schemes are to be addressed to the Insurance and Pensions Supervision Unit and submitted in writing via email to [ipsu@mfsa.com.mt](mailto:ipsu@mfsa.com.mt), referring to the Consultation Document, by not later than 12 August 2019.

## 2.0 The proposed amendments to the Pension Rules for Occupational Retirement Schemes

### Part A: An Overview of the Licensing Requirements Applicable under the Retirement Pensions Act, 2011

#### *General comments*

- 2.1 It is proposed to amend the Pension Rules for Occupational Retirement Schemes to align them with amendments and the terminology used in the amended Act, which has been issued for consultation on the 22<sup>nd</sup> October 2018, and which partly transposes the IORP II

Directive. In our consultation document of the 16<sup>th</sup> November 2018, the MFSA proposed to issue Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2019, in order to allow a person, who was in possession of a recognition issued under article 7 of the Act, to surrender the certificate of recognition to the MFSA by no later than twelve months from the coming into force of the said regulations. In this regard, the MFSA is proposing to retain the provisions related to back office administration in the Pension Rules for Occupational Retirement Scheme during the transitional period referred to above, effective from the date of publication of the Act. Following such transitional period, the MFSA will remove the provisions related to back office administrators from the Pension Rules for Occupational Retirement Schemes.

### *Nature and Operation*

- 2.2 The current Pension Rules for Occupational Retirement Scheme require that an occupational retirement scheme is to be established with the purpose of collecting contributions made by an employer(s), or by an employer(s) and employees through an employment relationship. The MFSA would like to point out that with respect to contributions made by employees through an employment relationship, the MFSA requires employees to be connected to a sponsoring undertaking, for instance an employer of an entity sets up an occupational retirement scheme on behalf of his employees, and it is agreed that, after a period of time, subsequent contributions, will be carried out solely by the employees.

The MFSA is also proposing to include a new category of persons who can be contributors to an occupational retirement scheme; an association representing employers, including self-employed persons.

### *Introducing an oversight and monitoring role for the Custodian Function at Scheme level*

- 2.3 The MFSA is proposing that entities responsible for carrying out the custody function, besides being responsible for the safe-keeping of assets, are also to be made responsible for carrying an oversight function over the investment management function, in accordance with the requirement in Article 33 of the IORP II Directive. As a consequence, the Pension Rules for Occupational Retirement Schemes are being amended to reflect the oversight function which was also recently introduced in the Pension Rules for Personal Retirement Schemes.
- 2.4 Paragraph 1.5.1(b) of the draft Pension Rules for Occupational Retirement Schemes states that ***“Depending on the structure and nature of the Occupational Retirement Scheme, a custodian separate from the Retirement Scheme Administrator may need to be appointed for the safe-keeping of assets and oversight duties.”*** This means that, in the instances where the Retirement Scheme Administrator carries out the investment management function of the assets, or where it decides to delegate the function relating to the custody of assets, the Retirement Scheme Administrator is required to appoint a custodian separate from the Retirement Scheme Administrator.

*Funding*

- 2.5 The MFSA is proposing to amend paragraph 1.8.1 of the draft Pension Rules for Occupational Retirement Schemes to clarify that, associations representing employers, including self-employed persons can be considered as contributors to occupational retirement schemes.

*Requirement of Fitness and Properness and Licensing Criteria*

- 2.6 The MFSA is proposing to introduce a new section to Part A of the Pension Rules entitled **“Requirement of Fitness and Properness”**. The fit and proper requirements will remain in principle the same, but are now also made applicable to key function holders. The new Section transposes Article 22(1) of the IORP II Directive and states that persons who effectively run the occupational retirement scheme and persons who carry out key functions are required to be **“fit and proper”** at all times. In order to align the Pension Rules for Occupational Retirement Schemes with the IORP II Directive, the MFSA is proposing to introduce new requirements to the licensing criteria.

*Exercise of Cross-border Activity and Cross Border Transfers Occupational Retirement Schemes*

- 2.7 One of the most relevant amendments of the IORP II Directive relates to cross-border activities and cross-border transfers whereby the relevant procedures to be followed have been clarified. The title of Section A.4.1 will be amended to read *Exercise of Cross Border Activities and Cross Border Transfers by Occupational Retirement Schemes*, and two new sub-sections are being introduced. These new sections, build on the requirements of the Retirement Pensions (Cross-Border Activities and Cross-Border Transfers) Regulations, 2019, which transpose Articles 11 and 12 of the IORP II Directive.
- 2.8 Section A.4.1 will refer to two new Schedules. Schedule B in Part D to the Pension Rules for Occupational Retirement Schemes will contain a standard application form with the information to be provided in the case of an occupational retirement scheme proposing to operate on a cross-border basis. Schedule C in Part D to the Pension Rules for Occupational Retirement Schemes will contain a standard application form with the information to be provided by an occupational retirement scheme proposing to transfer all or part of its liabilities, technical provisions and other obligations and rights as well as corresponding assets or cash equivalents. The information in Schedules B and C will reflect the standard Application Forms found in Appendices 4a and 6a, respectively, to the *Annex to the Board of Supervisors Decision on collaboration of the competent authorities of the Member States of the European Economic Area (EEA) with regard to 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)*.

- 2.9 Article 12 of the IORP II Directive requires IORPs desirous of transferring all or part of their liabilities, technical provisions, other obligations and rights, as well as corresponding assets or cash equivalents, to get the approval of a majority of members and a majority of beneficiaries, prior to the cross border transfer. In this respect, following the consultation document issued on the 4th February of 2019 on Amendments to Regulations issued under the Retirement Pensions Act, the MFSA is proposing to introduce a new definition of **“majority” in the Retirement Pensions (Cross-Border Activities and Cross-Border Transfers) Regulations, 2019. This new definition will read as follows; “majority” means** the Maltese IORP has obtained the approval of an aggregate of not less than two-thirds of the members of the Maltese IORP and an aggregate of not less than two-thirds of the beneficiaries of the Maltese IORP, or where applicable their representatives.

## Part B: Standard Licence Conditions for Occupational Retirement Schemes

### *Operation of the Scheme*

- 2.10 As a general principle, in terms of Article 7 of IORP II Directive, IORPs, where relevant, are to take into account the objective of ensuring the intergenerational balance of occupational pension schemes, by aiming to have an equitable spread of risks and benefits between generations in occupational retirement provision. It is being proposed to introduce a new S.L.C. 1.2.6 to the draft Pension Rules for Occupational Retirement Schemes, which provides that the occupational retirement scheme is to have regard to the aim of having an equitable spread of risks and benefits between generations.
- 2.11 It is also being proposed to introduce a requirement where an occupational retirement scheme is to provide the MFSA with certain information regarding the provision of occupational pensions, on quarterly and/or annual basis, as may be required, in accordance with Appendix 14 of Part B to the Pension Rules for Occupational Retirement Schemes. This requirement is being included following *the Decision of the Board of Supervisors on EIOPA's regular information requests towards NCAs regarding provision of occupational pensions information*, whereby according to Article 35 of Regulation (EU) No 1094/2010. EIOPA will request information from the national competent authorities at recurring intervals and in specified formats with regard to the provisions of the IORP Directive. Therefore, following an assessment conducted by the MFSA in line with the requirements of the Decision, the MFSA will require occupational retirement schemes to submit specific information as specified in Appendix 14 in Part B to the Pensions Rules for Occupational Retirement Schemes in order to comply with this reporting requirement.

### *Service Providers*

- 2.12 In order to emphasise the fiduciary role that the Retirement Scheme Administrator has towards the members and beneficiaries, the MFSA is proposing to clarify the role of the Retirement Scheme Administrator of an occupational retirement scheme.
- 2.13 The MFSA is also proposing to introduce new requirements which a Custodian is required to comply with, in order to transpose Article 33(5), 33(6) and 33(7) of Directive IORP II.

Amendments have also been included to reflect the oversight role that the custodian of an occupational retirement scheme is required to carry out.

*Documents, Reporting and Records*

*Scheme Particulars – Statement of Investment Policy Principles*

- 2.14 The Scheme Particulars contains a section on the Statement of Investment Policy of an occupational retirement scheme. This section provides that the Statement of Investment Policy is to be revised every three years or more frequently where appropriate. The MFSA is proposing to amend the section referring to the Statement of Investment Policy in the Scheme Particulars, to align it with the new requirements in line with Article 30 of the IORP II. The proposed amendments specify that the Retirement Scheme Administrator is to make the Statement of Investment Policy available to the public.

The Pension Rules for Occupational Retirement Schemes are also being amended to require an occupational retirement scheme to include information on how the investment policy of such scheme takes into account the environmental, social and governance factors, in line with the requirements with Article 30 of the IORP II Directive.

*Scheme Records & Reports*

- 2.15 Standard Licence Condition 2.3.2 of the draft Pension Rules for Occupational Retirement Schemes requires an occupational retirement scheme to maintain proper and accurate records to show and explain the transactions, and assets and liabilities of the scheme and to maintain proper and accurate records in relation to a number of matters. The MFSA is proposing to include two new requirements, requiring an occupational retirement scheme to maintain proper and accurate records of:

(a) any partial transfers of its liabilities, technical provisions and other obligations and rights, as well as corresponding assets or cash equivalent thereof in accordance with the Retirement Pensions (Cross-Border Activities and Cross-Border Transfers) Regulations, 2019, and

(b) any vested pension rights of outgoing employees which the Scheme has retained as dormant in accordance with Appendix 12 of Part B to the Pension Rules for Occupational Retirement Schemes.

- 2.16 In accordance with the requirements of Article 29 of the IORP II Directive, the MFSA is proposing to introduce two new provisions. An occupational retirement scheme shall be required to publicly disclose, on the **Retirement Scheme Administrator's website**, the annual accounts and annual reports, irrespective of the set-up of the scheme. Moreover, the MFSA is also proposing to amend Appendix 4 to the Pension Rules for Occupational Retirement Schemes and require a scheme to disclose any significant investment holdings, in accordance with the requirements in Appendix 4 to the Pension Rules on Occupational Retirement Schemes. The MFSA is proposing to amend the period of submission of the half-yearly report to the MFSA from two months to three months from the end of the period concerned. The MFSA is also proposing to introduce the

requirement of the submission of an **auditor's management letter**, together with the annual report to the MFSA within six months of the end of the period concerned.

#### *Governance Requirements*

- 2.17 The IORP II Directive contains an extensive set of rules on governance. One of the main changes in the Pension Rules for Occupational Retirement Schemes is that the Retirement Scheme Administrator will have an explicit duty to ensure that they have in place an effective system of governance. The MFSA is proposing to introduce a new Section B.3 in order to transpose the provisions of Sections 1, 2 and partially Section 3 of Title III of the IORP II Directive on Conditions Governing Activities.

#### *General*

- 2.18 S.L.C. 3.1.2 of the draft Pension Rules amplifies on the requirements found in article 13A of the Act, which provides that a Retirement Scheme Administrator of an occupational retirement scheme is required to have in place an effective system of governance which provides for the sound and prudent management of their activities and which shall be proportionate to the nature, scale and complexity of the activities of the Scheme. Article 21 of the IORP II Directive provides that the system of governance requirements shall include an effective internal control system and consideration of environmental, social and governance factors related to investment assets in investment decisions and shall be subject to regular internal review.

#### *Remuneration Policy*

- 2.19 Section B.3.2 of the draft Pension Rules for Occupational Retirement Schemes, which transposes the provisions of Article 23 of the IORP II Directive, provides that a Retirement Scheme Administrator is required to establish and apply a sound remuneration policy. Such remuneration policy shall apply to all those persons who effectively run the activities, carry out key functions and other categories of staff whose professional activities have a material impact on the risk profile of the Retirement Scheme Administrator in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities. A Retirement Scheme Administrator will also be required to comply with a number of requirements when establishing and applying the remuneration policy.

#### *Key Functions*

- 2.20 The IORP II Directive requires that all IOPRs put in place certain key functions. The MFSA is proposing to introduce new requirements related to key functions. A Retirement Scheme Administrator is required to have in place a risk-management function, an internal audit function, and where applicable an actuarial function, in line with Article 24 of the IORP II Directive. For reasons of proportionality, it is possible for a person to combine the role of key function holder for several key functions or for one or more key

functions, with the exception of the internal audit function. The key function holder of the Retirement Scheme Administrator is required to notify the MFSa where the key function holder reports risks or infringements to the Retirement Scheme Administrator, and the latter does not take appropriate and timely remedial action in accordance with Article 24(5) of the IORP II Directive.

#### *Risk Management*

- 2.21 The MFSa is proposing to introduce a new Section dedicated to risk management, reflecting the requirements of Article 25 of the IORP II Directive. The proposed amendments require the Retirement Scheme Administrator to have in place an effective risk-management function that is proportionate to the size and internal organisation thereof, as well as to the size, nature, scale and complexity of the activities of the scheme and the Retirement Scheme Administrator. This function shall be structured in such a way as to facilitate the functioning of a risk-management system, in accordance with a number of requirements identified in Section 3.4 of the draft Pension Rules for Occupational Retirement Schemes.

#### *Internal Audit*

- 2.22 A Retirement Scheme Administrator of an occupational retirement scheme, will be required to provide for an effective internal audit function in a manner that is proportionate to its size and internal organisation thereof, as well as to the size, nature and complexity of the activities of the occupational retirement scheme. Moreover, the internal audit function will include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the systems of governance, including, where applicable, outsourced activities of the Retirement Scheme Administrator.

#### *Actuarial Function*

- 2.23 Where a Scheme is set up as a defined benefit scheme, the Retirement Scheme Administrator will be required to have an effective actuarial function. The MFSa is proposing to introduce a new Section 3.6 in the Pension Rules, transposing the requirements of Article 27 of the IORP II Directive. This Section contains the requirements which a Retirement Scheme Administrator is required to comply with to have an effective actuarial function in place.

#### *Own-risk Assessment*

- 2.24 In accordance with the requirements of Article 28 of the IORP II Directive, a Retirement Scheme Administrator is required to carry out and document an own-risk assessment of the activities of the scheme and the Retirement Scheme Administrator, in a manner that is proportionate to the size and internal organisation, as well as to the size, nature and complexity of the activities of its Scheme. The own-risk assessment of the occupational retirement scheme is to be performed every three years, or without delay, following any significant change in the risk profile of the Retirement Scheme Administrator, and or the



occupational retirement scheme. The own-risk assessment is to take into account the strategic decisions of the occupational retirement scheme.

*Outsourcing*

- 2.25 Apart from the requirements found in Section 4.4 of Part B.4 of the Pension Rules for Service Providers, additional specific requirements relating to outsourcing are being included to reflect the requirements of Article 31 of the IORP II Directive. The Retirement Scheme Administrator is not to outsource of any key functions or any other activity in such a way that would lead to impairing the quality of its system of governance, unduly increase its operational risk, impair the ability of the MFSA to monitor the compliance of the occupational retirement scheme with its obligations and undermine the continuous and satisfactory service to members and beneficiaries.

*Conditions relating to the investments of the Scheme*

- 2.26 Section B.4 of the draft Pension Rules for Occupational Retirement Scheme which was previously in Section B.3 has been amended to be brought in line with the provisions of the IORP II Directive.

*Retirement Benefits for a Defined Contribution Retirement Scheme*

- 2.27 The MFSA is proposing amendments to the provisions related to retirement benefits for a defined contribution scheme. The proposed amendments clarify that where a member elects to take up to 30 per centum of the assets as a cash lump sum, the remaining assets of the member, which are not paid in the form of a cash lump sum are to be enough to generate sufficient retirement income throughout the lifetime of the member. Therefore, for a member to take the initial cash lump sum, the Retirement Scheme Administrator is to be satisfied that such member will have sufficient funds in the pension account to meet the minimum wage throughout his lifetime. In this respect, it is expected that the Retirement Scheme Administrators are to obtain demographic studies on life expectancy at the point the member would like to avail himself of the initial cash lump sum. Following the receipt of the initial cash lump sum or otherwise, the funds will be calculated as per SLC B.5.6.3 of the proposed Pension Rules for Occupational Retirement Schemes. It is proposed to reflect the same amendments carried out to the Pension Rules for Personal Retirement Schemes.

*Schemes which qualify as Qualifying Recognised Overseas Pension Schemes ("QROPS")*

- 2.28 The MFSA is proposing to delete the current S.L.C. 4.6.8 of Part B of the Pension Rules for Occupational Retirement Scheme, which contains a provision relating to an occupational retirement scheme which qualify as a qualifying recognised overseas pension scheme. The provision states that ***"The rules referred to under Part B.4.6 relating to Retirement Benefits for a Defined Contribution Retirement Scheme shall not apply to Members of retirement schemes licensed under the Act which qualify as Qualifying Recognised Overseas***

*Pension Schemes under rules issued by Her Majesty's Revenue and Customs ("UK HMRC").  
Members of these Schemes shall be subject to UK HMRC Rules."*

*Information for Scheme Members, Beneficiaries and Contributors*

- 2.29 One of the most relevant changes brought about by the IORP II Directive are the new detailed information requirements to be provided to prospective and current members of occupational retirement schemes. Such schemes are to provide clear and adequate information to prospective members, members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a scheme from pre-enrolment, membership (including pre-retirement) to post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees, and costs should be given. As a consequence, the MFSA is proposing to amend Section B.6 of the draft Pension Rules for Occupational Retirement Scheme, to reflect the requirements found in Articles 36 to 44 of the IORP II Directive and align some provisions with amended provisions in the Pension Rules for Personal Retirement Schemes.

*Principles and General information to be provided on Members and Beneficiaries*

- 2.30 The proposed Pension Rules for Occupational Retirement Schemes, contain requirements as to how the information is to be presented and made available free of charge as required by Article 36 of the IORP II Directive. Furthermore Article 37 of the IORP II Directive requires that the Retirement Scheme Administrator ensures that members and beneficiaries are provided with sufficient specific information. Therefore, the MFSA is proposing to amend S.L.C. 6.2.8 of the draft Pension Rules for Occupational Retirement Schemes, previously S.L.C. 5.1.1, to transpose Article 37 of the IORP II Directive. Furthermore, a new S.L.C. 6.2.10 to the draft Pension Rules for Occupational Retirement Schemes is being introduced in order to transpose Article 37(2) of the IORP II Directive, which clarifies that in the case of a defined contribution scheme which provides for more than one option, with different investment profiles, members shall be informed of:
- (a) the conditions regarding the range of investment options available;
  - (b) where applicable, the default investment option; and
  - (c) the requirements found in the constitutional document, scheme document and scheme particulars to allocate a particular member to an investment option.

*Pension Benefit Statement*

- 2.31 The IORP II Directive requires the annual submission of a Pension Benefit Statement (**herein "PBS"**) to members and beneficiaries. The PBS is a key information document which will contain key personal and generic information about the occupational retirement scheme. The document is to contain the words "**Pension Benefit Statement**" and is to indicate the date to which the information refers to. The PBS should be clear and comprehensive and should contain relevant and appropriate information to facilitate the understanding of pension entitlements over time and across schemes. The document is

to be provided to every member annually, and should contain information which clearly indicates any material change to the information when compared to previous years. It is being proposed to introduce a new Section B.6.3 to the draft Pension Rules for Occupational Retirement Schemes, transposing Article 38 of the IORP II Directive in the PBS.

- 2.32 The MFSA is also proposing to introduce a new Section 6.4 to the draft Pension Rules for Occupational Retirement Schemes, which transposes Articles 39 and 40 of the IORP II Directive. Section 6.4 of the draft Pension Rules for Occupational Retirement Schemes lists the key information which a PBS is required to contain. The PBS is required to contain personal details of the member, including the retirement, the name of the Retirement Scheme Administrator and its contact details, where applicable, information on full or partial guarantees under the occupational retirement scheme and if relevant, where further information can be found and information on pension benefit projections. Furthermore, the PBS will also indicate where and how to obtain any supplementary information.
- 2.33 With respect to the pension benefit projections, the MFSA is proposing that an occupational retirement scheme shall, as a minimum, apply the following economic deterministic assumptions when calculating the said projections:
- (a) return on investments;
  - (b) asset allocation;
  - (c) costs;
  - (d) member contributions;
  - (e) employer contributions;
  - (f) individual salary;
  - (g) age;
  - (h) retirement age;
  - (i) number of years of participation.
- 2.34 Where an occupational retirement scheme is a Defined Benefit Scheme, in addition to applying the economic deterministic assumptions identified in S.L.C. 6.3.5 of Part B of the Pension Rules for Occupational Retirement Schemes, when calculating the pension benefit projections required to be disclosed in S.L.C. 6.4.1(d) of the Pension Rules for Occupational Retirement Schemes, such Scheme shall also apply the following economic deterministic assumptions:
- (a) interest rate;
  - (b) inflation;
  - (c) biometric assumptions.
- 2.35 The IORP II Directive requires that clear and adequate information is to be provided to prospective members and beneficiaries to support their decision-making about their retirement and ensure a high level of transparency throughout the various phases of a

scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement.

*Information to be given to prospective members*

- 2.36 Before joining an occupational retirement scheme, prospective members who are not automatically enrolled should be given all the necessary information to make an informed choice. In this respect, the MFSA is proposing to introduce a new Section B.6.5 to the draft Pension Rules for Occupational Retirement Schemes, to transpose the information which prospective members are required to be informed of, in line with Article 41 of the IORP II Directive. The Pension Rules will also provide that, where members are automatically enrolled in an occupational pension scheme, the occupational retirement scheme will be required to provide members with key information about their membership promptly, after enrolment.

*Information to be given to members during pre-retirement phase*

- 2.37 The MFSA is proposing to introduce a new requirement, whereby the Retirement Scheme Administrator provides every member, five years before retirement age, or at the request of the member, with information about the benefit pay-out options available in taking their retirement benefits. This new requirement has been introduced in order to transpose Article 42 of the IORP II Directive.

*Information to be given to Beneficiaries during the pay-out phase*

- 2.38 The MFSA is proposing to amend the information to be given to the beneficiaries, during the pay-out phase, in line with Article 43 of the IORP II Directive. During the phase where retirement benefits are paid, beneficiaries are to continue to receive information, periodically, on their benefits and corresponding pay-out options. When a significant level of investment risk is borne by beneficiaries in the pay-out phase, the beneficiaries of a scheme shall be provided with appropriate information, regularly. Beneficiaries shall be informed without delay, after a final decision has been taken resulting in any reduction in the level of benefits due, and three months before that decision is implemented.

*Additional information to be given on request to Members and Beneficiaries*

- 2.39 A Retirement Scheme Administrator shall be required, upon request from a member, a beneficiary or their representative to provide them with additional information on the assumptions used to generate the projections referred to in as provided for under S.L.C. 6.8.1 of Part B of the Pension Rules for Occupational Retirement Schemes.

*Additional Conditions for a Scheme set up as an Umbrella Fund*

- 2.40 The MFSA is proposing amendments to clarify that even though each sub-fund of an occupational retirement scheme requires the approval of the MFSA, such scheme is not required to seek approval from the MFSA and submit an application form and supporting

documentation, where the offering Memorandum and the offering supplements are the same with respect to the sub-fund.

*Supplementary Conditions for Schemes established as a trust*

- 2.41 In the case of occupational retirement schemes established as a trust, the MFSA is proposing amendments to clarify that the provisions of the Trust and Trustees Act (Cap.331), except as otherwise provided in the said Act, shall apply to a Retirement Scheme Administrator acting as a sole trustee of an occupational retirement scheme, whether such trustee is authorised under the said Act, or is not required to obtain authorisation in terms of the Act.
- 3.0 Appendices to Pension Rules for Occupational Retirement Schemes
- 3.1 The MFSA is also proposing amendments to Appendices 2 to 5 of Part C of the Pension Rules for Occupational Retirement Schemes, in order to align them with the amendments introduced in the Appendices to the Pension Rules for Personal Retirement Schemes. The new Appendix 14 to Part C of the Pension Rules for Occupational Retirement Schemes, referred to in paragraph 2.11 of this consultation is also being issued for consultation.
- 4.0 The Way Forward
- 4.1 In order to provide more detailed information on the expectations of the MFSA on the implementation of the IORP II Directive, the MFSA will provide further information in the course of 2019 to set out its expectations, in the form of circulars, regarding the new amended legal requirements in particular in relation to the introduction of the key functions, the appointment of key function holders and the submissions of the first Own Risk Assessment.