

18 March 2020

Circular relating to the new Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2020

1.0 Background

Act No. V of 2020 entitled the Various Financial Services Laws (Amendment) Act, 2020, was published on the 3rd March 2020 in the Government Gazette No. 20,357. Part X of the said Act amends the Retirement Pensions Act (Cap. 514) primarily for the purposes of transposing relevant provisions of 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). The said regulations came into force on 4th March 2020.

2.0 The Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2020

The purpose of the Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2020 is to issue transitional provisions on back-office administrators. In the Consultation Document dated 6th December 2017 (MFSA Ref: 09-2017), the MFSA clarified that from on-sites carried out by the MFSA, it emerged that some of the activities carried out by current back office administrators, recognised or otherwise exempted, went beyond back-office administrative activities. Some back-office administrators were in practice, carrying out functions compatible to those of a Retirement Scheme Administrators. Thus, the MFSA proposed that the concept of back-office administration is removed from the Retirement Pensions Act, regulations and Pension Rules issued thereunder.

Furthermore, in the MFSA Consultation Document of 4th February 2019 (MFSA Ref: 02/2019), the MFSA clarified that the concept of back office administration is being deleted from the Retirement Pensions Act.

In view of the above, it is being brought to the attention of persons carrying on back-office administrative activities that any person, who on the date of coming into force of the regulations was in possession of a recognition issued under article 7 of the Act, shall surrender its certificate of recognition to the MFSA by no later than 12 months from the coming into force of the Retirement Pensions (Transitional Provisions on Back-Office Administrators) Regulations, 2020.

Furthermore, persons carrying on back-office administrative activities may continue to provide back-office administration until the date of the surrender of their recognition, on condition that:

- (a) such person provides the MFSA with such information as it may request, within such period as it may direct; and
- (b) continues to comply with such provisions of the Retirement Pensions Act, any regulations and Pension Rules issued thereunder; and
- (c) continues to comply with any conditions imposed by the MFSA upon granting recognition.

Consequently, back-office administrators currently recognized under the Act, as well as exempted back-office administrators are required to surrender their recognition certificate by the 4th March 2021.

Furthermore, Retirement Scheme Administrators currently utilising the services of such persons are required to carry out the necessary arrangements to comply with the removal of back-office administrative activities. Following the said removal, Retirement Scheme Administrators will be permitted to outsource certain activities which are of an administrative nature. It is to be noted that where a Retirement Scheme Administrator outsources such activities, such Administrator is required to outline the arrangements in an outsourcing agreement which is to be provided to the MFSA for its approval, in line with the requirements of paragraph 4.4.2 of the Pension Rules for Service Providers.

2.0 Contacts

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