

PART C

**APPENDICES TO RULES FOR
OCCUPATIONAL RETIREMENT SCHEMES**

APPENDIX 4

(SLC 2.3.4 of Part B of the Pension Rules for Occupational Retirement Schemes)

Annual Report

The contents of the Annual Report are primarily the responsibility of the Scheme and the Retirement Scheme Administrator, as applicable. Moreover, any Service-Provider, such as the Investment Manager and/or Custodian (where applicable) and the Auditor or Actuary (where applicable) who include their report within the Retirement Scheme's ('the Scheme') Report, also have a responsibility in ensuring the accuracy and fairness of their disclosures. The Scheme's auditor has a responsibility insofar as the audited financial statements and the opinion expressed thereon is concerned.

- 4.1 The annual report shall be prepared in conformity with International Financial Reporting Standards. In the case of a Scheme investing in a Retirement Fund, the accounting policies used shall be consistent with those adopted in the relevant Retirement Fund's annual financial statements and shall be consistently applied.
- 4.2 A copy of the annual report should be produced within the stipulated time limits (laid down in the Standard Licence Condition 2.3.9 of Part B of the Pension Rules for Occupational Retirement Schemes). A copy of the Annual Report should also be submitted to the MFSA, together with a confirmation by the Retirement Scheme Administrator or in the case of a Scheme established as a SICAV, by the Board of Directors of the Scheme concerned in line with Schedule II and an Auditor's Report in line with Schedule III to this Appendix.
- 4.3 The Retirement Scheme Administrator or the Board of Directors in the case of a Scheme established as a SICAV, should ensure that all the necessary checks have been carried out to ensure the accuracy and completeness of the Annual Report prior to publication.
- 4.4 Copies of the Annual Report submitted to the MFSA should be accompanied by a confirmation from the Retirement Scheme Administrator or the Board of Directors in the case of a Scheme established as a SICAV, to the effect that to the best of its/ their knowledge, the Report is complete and accurate in all material respects and conforms with MFSA's requirements in terms of the Scheme's Standard Licence Conditions. A specimen of the wording of such a confirmation is included in Schedule II hereto.
- 4.5 In so far as the Annual Report is concerned, the Retirement Scheme Administrator or the Board of Directors in the case of a Scheme established as a SICAV, will be required to request the Scheme's auditors to review the Report in its entirety to ensure that it includes all disclosures required by the Pension Rules for Occupational Retirement Schemes and that all references to figures included in the audited financial statements are accurate. The Retirement Scheme Administrator or the Board of Directors in the case of a Scheme established as a SICAV, shall require the Scheme's auditor to provide it with an opinion to this effect which shall be retained in the Administrator's records. A specimen of the wording of such an opinion is included in Schedule III to this Appendix.

- 4.6 MFSA reserves the right to take whatever action it deems appropriate should it come across material misstatements and/or inaccurate or incomplete information therein. Such action may range from requests for clarifications, to the possible imposition of fines and – where necessary – amendments to the Reports. The MFSA, if the circumstances so warrant, may issue a Public Notice stating why amendments have been necessary.
- 4.7 A Scheme should produce an annual report for each financial year.
- 4.8 Dates for the initial reports issued by the Scheme should be agreed with the MFSA at the time of Licensing.
- 4.9 The annual report should contain a Balance Sheet or a Statement of Assets and Liabilities, a detailed Income and Expenditure Account for the financial year, a report on the activities of the financial year and the other information outlined in Schedule I to this Appendix.
- 4.10 The annual report should be supplied to Members, Contributors and Beneficiaries free of charge on request.
- 4.11 The annual report should contain changes in the composition of the Retirement Scheme membership. In respect of: [i] active Members; [ii] deferred Members; [iii] Members receiving benefits; [iv] dependants receiving allowances (if applicable); and [v] any other category of membership the following is required:
- i. the number of Members at the beginning of the Scheme Year for each type of membership outlined above;
 - ii. the number of new entrants / deferred Members / retirements / new dependants receiving allowances;
 - iii. number of deaths-in-service;
 - iv. number of Members retiring from the retirement scheme;
 - v. number of Members leaving the retirement scheme; and
 - vi. the number of Members at the end of the Scheme Year for each type of membership outlined above.

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Schedule I - Information to be contained in the Annual Report

- 4.1 The annual report should include the following as well as any additional information sufficient to enable Member(s), Beneficiary(ies) and Contributor(s) to make an informed judgement on the development, management, operation and financial performance of the scheme.
- 4.2 The Scheme's Annual Report shall include:
- (a) the audited financial statements for the Scheme Year reflecting each distinct Sub-Fund (where applicable), which shall be audited in conformity with International Standards on Auditing.
 - (b) the Scheme's Accounts shall show a true and fair view of:
 - i. the financial transactions of the Scheme during the Scheme Year;
 - ii. the amount and disposition of the Scheme assets at the end of the Scheme Year;
 - iii. the liabilities of the Scheme other than the liabilities to pay Benefits after the end of the Scheme Year;
 - iv. the Scheme's financial position;
 - v. a disclosure of significant investment holdings;and shall contain:
 - vi. an account of the additions to, withdrawals from and changes in value of the Scheme assets during the Scheme Year;
 - vii. a statement as at the end of the Scheme Year of the value of the Scheme assets and the liabilities of the Scheme other than the liability to pay Benefits after the end of the Scheme Year;
 - vii. where the Scheme included Contributor-Related Investments the nature thereof and the percentage of the Scheme's assets represented thereby;
 - viii. in the case of a unitised Scheme:
 - number of Units in circulation;
 - NAV per Unit and mid-market price per Unit at the beginning and the end of the period.
 - (c) a statement of the remuneration, charges and expenses (including any benefit in kind) paid to the Retirement Scheme Administrator, any Investment Manager,

Investment Advisor and Custodian and any other person providing services to the Scheme.

- (d) a statement of the investments effected by the Scheme. In the case of a Scheme investing in Retirement Fund(s), this should also include a statement of the Retirement Fund(s) in which the scheme assets are invested and a copy of the most recent audited financial statements and Directors Report of such Fund(s) or a summary thereof;
- (e) a report by the Scheme Administrator and by the Scheme Directors in the case of a Scheme established as a SICAV and/or the Investment Manager on the activities of the Scheme during the period. The report by the Scheme Administrator must state as to whether the Scheme has been managed in accordance with any applicable Investment Restrictions and borrowing limitations and otherwise in accordance with the Scheme's Constitutional Document, Scheme Document and Scheme Particulars. If the Scheme has not complied with any of the above, the Report of the Retirement Scheme Administrator shall state why this is the case and outline the steps which the Retirement Scheme Administrator has taken to rectify the situation. The report by the Investment Manager should include a review of the investment performance of the Scheme's assets including an assessment of their nature, marketability and valuation in the case of a Defined Contribution Scheme;
- (f) portfolio details, distinguishing between the different types of investments and categorising each investment in accordance with the most appropriate criteria in the light of the Statement of Investment Policy of the Scheme (for example, in accordance with economic, geographical or currency criteria) as a percentage of Net Assets. For each of the investments the proportion it represents of the total Net Assets of the Scheme should be stated;
- (g) details regarding the exposure to derivatives and details, by category of transaction, of the resulting amount of commitments resulting from the use of techniques and instruments for the purposes of efficient portfolio management, including protection against exchange, interest rate and market risks;
- (h) a statement of change in the composition of the portfolio during the period;
- (i) where the Scheme has power to invest in any Contributor-Related Investments a statement as to the percentage of the Scheme's assets so invested at the end of the scheme Year and the nature of the investments;
- (j) a report by the auditor as to whether or not in his opinion:
 - the requirements mentioned in (b) above are satisfied; and
 - whether contributions have been paid in accordance with the Scheme's schedule of payments or where no schedule has been prepared in accordance with the Scheme Document or the relevant contracts under which they were payable.
- (k) a copy of the latest actuary's report or a summary thereof in the case of a Defined Benefit Scheme;

- (l) if the auditors' or actuary's report is negative or qualified or there has been any breach of the Scheme's Investment Objectives, Standard Licence Conditions and/or regulatory sanctions, a statement of the reasons why this has occurred and how the situation has been or is likely to be resolved. Where there have been no breaches or regulatory sanctions, it is sufficient merely to say so. However, if there have been breaches, a summary must be provided of each breach committed and/or regulatory sanction imposed;
- (m) the names and contact details of all Scheme functionaries;
- (n) details of significant changes to the Scheme Particulars during the period.
- (o) the auditor's report, including any qualifications, must be reproduced in full.

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Schedule II - Specimen Confirmation

[This confirmation is addressed by the Retirement Scheme Administrator (or Board of Directors in the case of a Scheme established as a SICAV) responsible for the preparation of the Annual Report of the Scheme to the MFSA]

We, the undersigned, are responsible for the preparation of the Annual Report of *(name of Scheme)* for the year ended _____ and confirm that to the best of our knowledge it is complete and accurate in all material respects and conforms with the MFSA's requirements in terms of the Scheme's Licensing Conditions.

We further confirm that the Scheme has been administered in accordance with the requirements of the Retirement Pensions Act (Cap.514) and of any regulations made thereunder, and of any Pension Rules, and that the Scheme's Licensing Conditions have been observed and complied with.

Retirement Scheme Administrator or Board of Directors (as applicable)

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Schedule III - Specimen Auditor's Opinion

[This confirmation is addressed by the Auditor to the MFSA].

We, the undersigned, have audited the annual accounts of *(name of Scheme)* for the year ended _____ in accordance with International Standards on Auditing. In our opinion the Annual Report is complete in all material respects in accordance with the MFSA's requirements, and the Scheme's licence conditions.

Moreover, based on our review procedures, nothing has come to our attention that causes us to believe that the information contained in the Annual Report is inconsistent with the books of account and the records of *(name of Scheme)*.

Auditor

(Signature and Date)