

Consultation Document on the MFSA Rule on the Pan-European Personal Pension Product and the Fees Relating Thereto

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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 Introduction

- 1.1 [Regulation \(EU\) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product](#), hereinafter referred to as '*the PEPP Regulation*' or '*the Regulation*', was published in the EU Official Journal on 25 July 2019. Following the publication of [the Commission Delegated Regulation of 18 December 2020](#), the PEPP Regulation was finalised and came into force on the **22 March 2022**.
- 1.2 A new legal notice entitled the Malta Financial Services Authority Act (Pan-European Personal Pension Product (PEPP)) Regulations, 2022 ([L.N. 133 of 2022](#)), has been issued on the 6th of May 2022. The main aim of this new legal notice is to designate the Malta Financial Services Authority as the authority responsible for the registration procedure, for supervision of the PEPP Product, PEPP providers and PEPP distributors, and for communication with EIOPA.
- 1.3 In this respect, the MFSA is proposing to introduce new fees. Following the consultation process, these fees will be included in the Malta Financial Services Authority Act (Pan-European Personal Pension Product (PEPP)) Regulations, 2022 by means of an amendment. The MFSA is also circulating a draft MFSA Rule which contains information in relation to the pre-application process of the PEPP Product, the [Guidelines on PEPP Supervisory Reporting](#) and the conditions pertaining to the accumulation and decumulation phase.
- 1.4 The purpose of this consultation is to highlight the new provisions and to take note of the market's feedback. These proposals are not binding and are subject to changes and revisions.
- 1.5 Any comments and feedback in relation to these proposed amendments are to be addressed to the Insurance and Pensions Supervision and submitted in writing via email to ips_legal@mfsa.mt, referring to this Consultation Document, by not later than 31 May 2022.

2.0 The Malta Financial Services Authority Act (Pan-European Personal Pension Product (PEPP)) Regulations, 2022

- 2.1 The Malta Financial Services Authority Act (Pan-European Personal Pension Product (PEPP)) Regulations, 2022 was introduced to implement the PEPP Regulation. The proposed Regulations designate the MFSA as the competent authority responsible for the following: (i) the authorisation of financial undertakings and other entities to manufacture and/or distribute PEPPs (as applicable) and the supervision thereof; (ii)

the registration of PEPPs and the monitoring thereof; and (iii) communication with EIOPA for the purposes of the PEPP Regulation, including the registration of PEPPs in the central public register to be kept by EIOPA. In terms of these Regulations, the MFSA may exercise the powers provided to it by law, including the power to impose administrative penalties and other measures, such as product intervention measures, for the purposes of the PEPP Regulation. Lastly, these Regulations shall also empower the MFSA to issue Rules.

- 2.2 A PEPP is a portable pension product which aims to attract the younger generation and mobile workers by further facilitating the right of European Union citizens to live and work across the European Union. The Malta Financial Services Authority Act (Pan-European Personal Pension Product (PEPP)) Regulations, 2022 provides that this pension product may be registered by a PEPP provider, which is defined in the same legal notice as a financial undertaking as referred to in Article 6(1) of the PEPP Regulation. The said Regulations also provides that a PEPP distributor – which is defined as a financial undertaking as referred to in Article 6(1) of the PEPP Regulation – may distribute PEPPs not manufactured by it. Furthermore, a PEPP may also be distributed by an investment firm providing investment advice, or an insurance intermediary as defined in point (3) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council.
- 2.3 The MFSA is proposing to issue a new set of fees which would need to be levied by a PEPP manufacturer as well as by a PEPP distributor. In this respect, the MFSA is proposing that the new fees be sub-divided as follows:
- payment of application fees;
 - payment of annual supervisory fees; and/or
 - payment of deregistration fee.
- 2.4 Each respective fee will be paid by the following:
- the PEPP manufacturer; and/or
 - the PEPP distributor.

Application Fees

2.5 An application fee would be required to be levied when a PEPP provider as defined under Article 6(1) of the PEPP Regulation seeks to be granted authorisation to manufacture a PEPP. The fee is to be levied upon the submission of an application irrespective of whether the application is eventually accepted or not. A PEPP manufacturer would be required to pay the following fees at application stage:

- PEPP €3,500
- PEPP manufacturer €2,000

2.6 Where a PEPP manufacturer is also interested in distributing a PEPP, such an entity would also be required to pay the following fee at application stage:

- PEPP distributor €1,500

2.7 Where an entity as defined under Article 6(1) of the PEPP Regulation or an investment firm providing investment advice, or an insurance intermediary as defined in point (3) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council is interested in distributing a PEPP, such entity would be required to pay the following fee at application stage:

- PEPP distributor €1,500

Annual Supervisory Fees

2.8 On the date of the granting of an authorisation by the competent authority, the second proposed fee – for **annual supervision** – becomes applicable. The first annual supervisory fee shall fall due immediately once authorisation is granted and shall be proportionate to the period remaining between the date of granting of the authorisation and the end of that calendar year. In this respect, the following annual fees are being proposed:

- PEPP €2,500
- PEPP manufacturer €1,000
- PEPP distributor €1,000

2.9 Thereafter, annually, upon the anniversary of the granting of such an authorisation, the PEPP manufacturer will be required to pay the following proposed fees:

- PEPP €2,500
- PEPP manufacturer €1,000

2.10 In the case of a PEPP Distributor, such an entity would also be required to pay the following fee annually, upon the anniversary of the granting of such an authorisation:

- PEPP distributor €1,500

2.11 Where an entity as defined under Article 6(1) of the PEPP Regulation or an investment firm providing investment advice, or an insurance intermediary as defined in point (3) of Article 2(1) of Directive (EU) 2016/97 of the European Parliament and of the Council distributes a PEPP, such entity would be required to pay the following fee annually, upon the anniversary of the granting of such an authorisation:

- PEPP distributor €1,500

Deregistration Fee

2.12 Finally, the third proposed new fee is in relation to **deregistration**. Any PEPP manufacturer applying for deregistration would only be required to pay the fee of €1,000 pertaining to the product, upon submission of the application for deregistration.

2.13 In relation to these proposed application, supervisory and deregistration fees, a further provision has also been added in the Regulations stipulating that the abovementioned fees are non-refundable and will not be calculated on a prorated basis.

3.0 The MFSA Rule on the Pan-European Pension Product

3.1 The MFSA is proposing to split this rule into five (5) titles:

- Title 1 – General scope and high-level principles
- Title 2 – Pre-application phase
- Title 3 – Conditions related to the accumulation phase
- Title 4 – Conditions related to the decumulation phase

- Title 5 – Guidelines on PEPP supervisory reporting
 - Title 6 – Additional information
- 3.2 The proposed new rule will contain definitions similar to the ones introduced in the legal notice. Furthermore, it will also introduce new definitions such as the “PEPP supervisory report” and the “Quantitative supervisory reporting”.
- 3.3 The MFSA is also proposing a pre-application phase. This phase would kick off when a potential applicant shows interest in obtaining authorisation to become a PEPP provider. In this instance, the PEPP provider may opt to make use of a pre-application phase, prior to submitting a formal application to the Authority. This process would allow the MFSA to conduct an informal check of the draft application for the registration of the PEPP and/or the notification of a sub-account. At this pre-application stage, the financial undertaking interested in registering a PEPP would be required to submit the pre-application notification and all relevant documentation for the authority to carry out these checks. This would be without prejudice to the formal final decision to be taken by the MFSA following the submission of the formal application.
- 3.4 The conditions for the accumulation phase in line with Article 47 of the PEPP Regulation and the conditions for the decumulation phase in line with Article 57 of the PEPP Regulation have also been included in the new rule.
- 3.5 The conditions related to the accumulation phase shall provide that whenever a PEPP provider opens a new sub-account within a PEPP account in Malta, it shall ensure that the accumulation phase shall commence on the day the PEPP saver attains 18 years of age.
- 3.6 The conditions for the decumulation phase shall require that the PEPP provider ensures that when a new sub-account within a PEPP account in Malta is opened, the following conditions related to the decumulation phase shall be observed:
- the decumulation phase shall commence on the day the PEPP saver reaches 50 years of age; and,
 - the decumulation phase must commence no later than the day on which the PEPP saver attains 75 years of age.
- 3.7 It is also being proposed that the rule implements the guidelines on PEPP supervisory reporting issued by EIOPA. In this respect, PEPP providers are required to adhere to the guidelines on PEPP Supervisory Reporting. This part of the rule will provide details of

the nature, scope and format of the information to be submitted by PEPP providers authorised to manufacture a PEPP and to distribute that PEPP, to the MFSA at predefined intervals and upon occurrence of predefined events.

3.8 These guidelines lay down the reporting stipulations, timelines and deadlines that PEPP providers are required to observe and comply with. These include:

- the frequency of the regular supervisory reporting;
- the reporting deadlines; and,
- the content of the PEPP supervisory report.

3.9 Furthermore, the rule will also contain the following requirements which a PEPP supervisory report is required to fulfil:

- the PEPP business is to be included in the PEPP supervisory report;
- the investment strategy and performance are to be included in the PEPP supervisory report; and
- the risk management and risk-mitigation techniques are to be included in the PEPP supervisory report.

3.10 The rule provides a step-by-step approach in ensuring that the submissions made by PEPP providers include the necessary information for the competent authority to be able to adequately assess and supervise the PEPP business. The main objective is that the competent authority should receive one harmonised set of information on the PEPP business, from which it would be able to build relevant indicators that support effective and efficient supervisory review processes. In this respect, the rule also contains a requirement that PEPP Providers are required to comply with the [Commission Delegated Regulation \(EU\) 2021/896 of 24 February 2021 supplementing Regulation \(EU\) 2019/1238 of the European Parliament and of the Council with regard to additional information for the purposes of the convergence of supervisory reporting.](#)

4.0 Way Forward

4.1 Following the end of the consultation period, the MFSA will review the comments raised by the market and will issue a feedback statement and the amended legislation.