

**MFSA RULE 5**  
**Pan-European Personal Pension**  
**Product**

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## REVISIONS LOG

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| VERSION | DATE ISSUED  | DETAILS                       |
|---------|--------------|-------------------------------|
| 1.00    | 13 JULY 2022 | RULE 5 OF THE MFSA ACT ISSUED |

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## **Title 1            General Scope and High-Level Principles**

### **Section 1        Scope**

R5-1.1.1            The scope of this Rule is to adopt the [Guidelines on PEPP Supervisory Reporting](#) issued further to Article 40 of the PEPP Regulation. This Rule will provide details of the nature, scope and format of the information to be submitted by PEPP providers to the MFSA at predefined intervals and upon occurrence of predefined events.

### **Section 2        Application**

R5-1.2.1            This Rule is applicable to PEPP providers authorised to manufacture a PEPP and to distribute that PEPP.

R5-1.2.2            Where a conflict arises with other Rules issued under the MFSA Act or any other special law administered by the Authority currently in force in Malta, the Rules set out in this Rule shall prevail, unless otherwise specified herein.

### **Section 3        Legal Basis**

R5-1.3.1            In terms of Article 16(2)(a) of the Malta Financial Services Authority Act, the Malta Financial Services Authority, as established under Article 3 of the Act, may issue and publish Rules regulating the procedures and duties of persons licensed or authorised by it, or falling under its regulatory or supervisory functions.

R5-1.3.2            This Rule is being issued in terms of Article 16(2)(a) of the Act and should be read in conjunction with any other legislative and/or regulatory framework, administered by the Authority, in force in Malta and any regulations and rules issued thereunder.

### **Section 4        Definitions**

R5-1.4.1            For the purpose of this Rule, the definitions identified under R5-1.4.2 should be read in conjunction with the provisions of the Malta Financial Services Authority Act and any other special law administered by the Authority for the time being in force in Malta.

R5-1.4.2            In the event that any of the definitions contained hereunder conflict with a definition under the Malta Financial Services Authority Act or any other law administered by the Authority for the time being in force in Malta, the definitions set out in the Act or in any other such law shall prevail.

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| <b>'the Act'</b>   | means the Malta Financial Services Authority Act;   |
| <b>'applicant'</b>   | means a financial undertaking as referred to in Article 6(1) of the PEPP Regulation desirous of applying for authorisation to become a PEPP provider;   |
| <b>'accumulation phase'</b>  | means the period during which assets are accumulated in a PEPP account and ordinarily runs until the decumulation phase starts;   |
| <b>'decumulation phase'</b>  | means the period during which assets accumulated in a PEPP account may be drawn upon to fund retirement or other income requirements;   |
| <b>'European Regulatory Authority'</b>                                 | means the competent authority as defined in Article 2 of PEPP Regulation, designated by a Member State or an EEA State, other than Malta, empowered by law or regulation to supervise a PEPP Provider;  |
| <b>'environmental, social and governance factors' or 'ESG factors'</b> | means environmental, social and governance matters such as those referred to in the Paris Agreement, the United Nations Sustainable Development Goals, the United Nations Guiding Principles on Business and Human Rights and the United Nations-supported Principles for Responsible Investment; |
| <b>'Financial Services Tribunal'</b>                                   | means the tribunal established in terms of Article 21 of the Act;   |
| <b>'the Authority'</b>   | means the Malta Financial Services Authority, as established by the Act;  |

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| <b>'Member State'</b>                       | means a Member State of the European Union;   |
| <b>'PEPP'</b>                               | means a pan-European personal pension product which is a long-term savings product, provided by a financial undertaking as defined in Article 6(1) of the PEPP Regulation under a PEPP contract as defined in Article 2(4) of the PEPP Regulation, and subscribed to by a PEPP saver, or by an independent PEPP savers association on behalf of its members, in view of retirement, and which has no or strictly limited possibility for early redemption and is registered in accordance with the PEPP Regulation; |
| <b>'PEPP Provider'</b>                      | means a financial undertaking as referred to in Article 6(1) of the PEPP Regulation, authorised to manufacture and distribute a PEPP;   |
| <b>'PEPP Regulation'</b>                    | means Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP);  |
| <b>'PEPP Saver'</b>                         | means a natural person who has concluded a PEPP contract with a PEPP provider;  |
| <b>'PEPP supervisory report'</b>            | means a regular and <i>ad hoc</i> narrative report on the PEPP business which allows monitoring the effectiveness of risk mitigation techniques and ongoing compliance with the PEPP Regulation;  |
| <b>'Quantitative supervisory reporting'</b> | means the reporting templates to be submitted in line with the Commission Implementing Regulation (EU) 2021/897;  |
| <b>'reference period'</b>                   | means the period covering the information in the PEPP Supervisory report from the last reporting period submitted to the competent authority;   |
| <b>'Rule'</b>                               | means Rule 5 under the MFSA Act.  |

## **Section 5      Transitory Period**

R5-1.5.1            This Rule will be applicable from **the date of publication**.

### **Title 2            Pre-application phase**

R5-2.1.1            A potential applicant desirous to obtain registration for the PEPP Product may opt to make use of a pre-application phase prior to submitting a formal application to the Authority. The pre-application phase is without prejudice to the formal final application document to be submitted to the MFSA.

R5-2.1.2            The documentation that needs to be submitted to the competent authority during the pre-application phase consists of an application form and all the necessary documentation in line with the requirements of Articles 6(2) and 21(2) of the PEPP Regulation and Annexes V and IX of the Commission Implementing Regulation (EU) 2021/897 of the 4 March 2021. Where applicable, the potential applicant shall also provide the information in accordance with Article 14 and 15 of the PEPP Regulation.

### **Title 3            Conditions related to the accumulation phase**

R5-3.1.1            Where a PEPP provider opens a new sub-account within a PEPP account in Malta it shall ensure that the accumulation phase shall commence on or after the day a PEPP saver attains eighteen (18) years of age.

### **Title 4            Conditions related to the decumulation phase**

R5-4.1.1            Where a PEPP provider opens a new sub-account within a PEPP account in Malta it shall comply with the following conditions related to the decumulation phase:

- (a) the decumulation phase shall commence on or after the day the PEPP saver reaches the age of 50 years.
- (b) the decumulation phase cannot commence later than the day on which the PEPP saver attains the age of 75 years.



## **Title 5 Guidelines on PEPP Supervisory Reporting**

### **Section 1 Frequency of the Regular Supervisory Reporting**

- R5-5.1.1 A PEPP provider shall submit to the Authority the quantitative supervisory reporting on the PEPP business on an annual basis. The quantitative supervisory reporting shall refer to the financial year-end of the PEPP provider.
- R5-5.1.2 A PEPP provider shall submit the PEPP supervisory report to the MFSA at least every three years or on a more frequent basis as requested by the MFSA, after the date of the registration of the PEPP.
- R5-5.1.3 Without prejudice to rule R5-1.6.2, where the PEPP provider identifies significant changes in the PEPP business or identifies any modifications to the PEPP, a PEPP provider shall submit the PEPP supervisory report at the year-end of the year of registration.
- R5-5.1.4 The Authority may, taking into account a risk based approach, request more frequent submissions of the regular supervisory reporting.
- R5-5.1.5 Where a PEPP provider reports material changes in the reported information after submission by the PEPP provider takes place, the PEPP provider shall submit the amended information again without undue delay.

### **Section 2 Reporting Deadlines**

- R5-5.2.1 A PEPP provider shall report to the Authority the quantitative supervisory reporting according to the PEPP provider's sectoral rules for annual reporting, but no later than 16 weeks after the said PEPP provider's financial year-end.
- R5-5.2.2 The Authority shall submit the regular supervisory reporting to EIOPA four weeks after the deadlines indicated in R5-1.6.6.
- R5-5.2.3 A PEPP provider shall report to the Authority the PEPP supervisory report no later than 18 weeks after the PEPP provider's financial year-end.

### **Section 3      Content of the PEPP Supervisory Report**

R5-5.3.1      A PEPP provider shall ensure that the PEPP supervisory report covers the:

- i.    relevant aspects concerning the PEPP business;
- ii.   investment strategy and its performance;
- iii.  risk management systems and the effectiveness of the risk-mitigation techniques for the PEPP; and,
- iv.   relevant implications of the PEPP provider's prudential framework.

*Sub-section 1      PEPP Supervisory Report: relevant aspects concerning the PEPP Business*

R5-5.3.2      A PEPP provider shall include in the PEPP supervisory report, a description of the nature of the PEPP business, investment options and external environment, any significant business or external events that have occurred over the reference period and general information regarding the PEPP, which shall include:

- i.    the PEPP registration number;
- ii.   the name and address of the external auditors of the PEPP provider;
- iii.  a description of the PEPP investment option and of the guarantees, including a description of the pricing of the guarantees, which the PEPP provider writes, and the countries in which it writes those options in, specifically highlighting any changes over the reference period;
- iv.   a description of the target market as well as a description of the actual PEPP savers, which shall at least refer to the age profile of the target PEPP savers and on how the assessment of the PEPP savers' financial situation, financial knowledge and capacity to bear losses is considered for the investment profile;
- v.    any significant business or external events that have occurred over the reference period, if not reported more specifically elsewhere, that have had a material effect on the PEPP savers' objectives, on the PEPP provider or on its PEPP business models and PEPP strategy;

- vi. the main trends and factors that have contributed positively or negatively to the development, performance and position of the PEPP over the reference period;
- vii. a description of the distribution channels used to sell the PEPP and controls to ensure adequate distribution;
- viii. a description of the switching procedures in place for PEPP business and implemented over the reporting period;
- ix. a high-level description of the complaints received including:
  - a. the outcomes of the complaints;
  - b. the average maturity of the contracts for which the complaints were received;
  - c. what the complaint refers to, and the relevant actions undertaken by the provider to address the specific complaints; and,
  - d. broader actions to address any issue relating to the design and distribution of the PEPP.

R5-5.3.3

A PEPP provider shall outline the governance structure relating to the PEPP business in the PEPP supervisory report, covering at least:

- i. the administrative and accounting procedures in place that enable the PEPP provider to deliver reports which reflect a true and fair view of the PEPP's investments and liabilities and which comply with all applicable accounting standards in a timely manner;
- ii. where applicable, information on the main tasks of the compliance function implemented for the PEPP business;
- iii. information on the systems and controls in place to ensure that the product oversight and governance policy is adhered to;
- iv. where relevant, a description of how the main tasks of the actuarial function are implemented for the PEPP business; and,
- v. a high-level explanation of the partnerships and contracts with external parties for the PEPP and on the functioning of these contracts or partnerships, as well as their terms and conditions, and their performance for the affected PEPP contracts.

*Sub-section 2 PEPP Supervisory Report: Investment strategy and performance*

R5-5.3.4 A PEPP provider shall describe the employed investment strategy for each investment option of the PEPP in the PEPP supervisory report. This description shall include at least:

- i. a description of the systems in place to ensure compliance with Article 41 of the PEPP Regulation;
- ii. an identification of the risk factors and sources of return of the investment strategy;
- iii. a description how the investment strategy takes into account the interests of the PEPP savers, having in mind their specific profile and taking into account environmental social governance (ESG) factors;
- iv. a description of the systems in place to monitor the PEPP investment strategy as well as the policy to change the strategy when required; and,
- v. where relevant, a description of the liquidity management plan as well as the actions that the PEPP provider can undertake if such event occurs.

R5-5.3.5 A PEPP provider shall set out detailed information about the financial performance of investments held for the PEPP in the PEPP supervisory report, including:

- i. the administrative or management body's analysis of the PEPP-related investments' overall performance;
- ii. information on gains or losses from PEPP investments and, where relevant, components of such income from appropriate subsets of the investment categories;
- iii. the impact of derivatives on the PEPP's investment performance; and,
- iv. information on the PEPP's investment expenses incurred over the reference period compared to prior years, and reasons for material changes.

*Sub-section 3 PEPP Supervisory Report: Risk Management and risk-mitigation techniques*

R5-5.3.6 A PEPP provider shall outline in the PEPP Supervisory Report:

- i. the types of risk to which the PEPP savers are or could be exposed; and,
- ii. the risk management system with regard to the provision of PEPP, including its risk strategy and written policies in place to ensure compliance with its strategy.

R5-5.3.7 A PEPP provider shall describe how the risk management system is able to identify, measure, monitor, manage and report, on a continuous basis, the risks to which the PEPP savers are or could be exposed, and their interdependencies in the PEPP Supervisory Report. The required information should include:

- i. the risk management framework implemented for the PEPP business, based on written policies on how to address the risks, having regard to the nature, volume and complexity of the PEPP offered;
- ii. the systems that are in place to ensure compliance with the requirements of the PEPP Regulation;
- iii. the scope and nature of risk management systems, based on written policies on how to manage risks, including a description of management tools used to identify, measure, monitor, manage and report the risks related to the provision of the PEPP, including the PEPP provider's approaches to the management of, at least, financial and liquidity risks, market risks, credit risks, reputational risks and ESG risks;
- iv. the effectiveness of the risk management and internal control systems in place having regard to the PEPP-related risks they are designed to control;
- v. a high-level review of the scope, frequency and requirements of the management information presented to the administrative or management body regarding the PEPP; and,
- vi. details of how the PEPP provider monitors the risks arising from any off-derivative positions.

R5-5.3.8 A PEPP provider shall include in the PEPP Supervisory Report, the employed risk-mitigation techniques, which shall include at least:

- i. details of allocation mechanisms, approaches, methodologies for and the actual performance of the risk-mitigation techniques used for the PEPP investment options; and,
- ii. processes for monitoring the continuing effectiveness of these risk-mitigation practises.

*Sub-section 4*      *PEPP Supervisory Report: aspects relating to the PEPP Provider's Prudential Framework*

R5-5.3.9      A PEPP provider shall include the following details in the PEPP Supervisory Report:

- i. information on the valuation principles applied for solvency purposes, where applicable; and,
- ii. information on the capital structure of the PEPP provider, capital ratios and level of leverage, where applicable.

## **Title 6      Additional information**

R5.6.1.1      A PEPP Provider shall also 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.](#)

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