MFSA MALTA FINANCIAL SERVICES AUTHORITY

Retirement Provision Business of an Authorised Insurance Undertaking Carrying on Long-Term Business of Insurance

Chapter 16

CONTENTS

REVISIONS LOG

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16.1 Introduction

16.1.1 This Chapter on retirement provision business of an authorised insurance undertaking carrying on long term business of insurance is made by the competent authority pursuant to, and for the purposes of, article 4 of the Act and determines the requirements which an authorised insurance undertaking carrying on retirement provision business is required to comply with.

16.2 Applicability

16.2.1 The Chapter applies to the retirement provision business of an authorised insurance undertaking carrying on long term business of insurance (“authorised insurance undertaking”).

16.3 Definitions

16.3.1 In this Chapter, unless otherwise required:

"the Act" means the Insurance Business Act;

"accumulation phase" means the period during which assets are accumulated in a retirement product and runs until the decumulation phase starts;

"approved actuary" shall have the meaning assigned to it in Article 22(5) of the Insurance Business Act;

"authorised insurance undertaking" means an insurance undertaking authorised under the Act to carry on long term business of insurance and retirement provision business;

"beneficiary" means an individual receiving retirement benefits in accordance with the provisions of a retirement product;

"competent authority" means the Malta Financial Services Authority established by means of the Malta Financial Services Authority Act;

"decumulation phase" means the period during which assets which have been accumulated in a retirement product may be withdrawn, to fund retirement or other income requirements;
"insurance-based investment product" means an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations. Insurance-based investment products shall not include:

(a) non-life insurance products as listed in Annex I of Directive 2009/138/EC (Classes of Non-life Insurance);

(b) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or infirmity;

(c) officially recognised occupational pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC; and,

(d) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;

"occupational retirement product" means an insurance-based investment product which includes a qualifying scheme as defined in the Voluntary Occupational Pension Scheme Rules, 2017, (S.L 123.175), distributed by an authorised insurance undertaking, the purpose of which is to provide cover for a loss of income due to old age and that:

(a) is based on an agreement or contract:

 (i) individually or collectively between the employer(s) and the employee(s) or their respective representatives, or

 (ii) with self-employed persons, individually or collectively;

(b) where the occupational retirement product is not a qualifying scheme as defined in the Voluntary Occupational Pension Scheme Rules, 2017, (S.L

123.175), the commencement of payment of Retirement Benefits to a policyholder may not be made on a date that is earlier than that on which such policyholder has attained the age of fifty, or later than that on which the policyholder attains the age of seventy-five;

"occupational retirement provision business" means the manufacturing and distribution of occupational retirement products carried out by an authorised insurance undertaking;

''personal retirement provision business'' means the manufacturing and distribution of personal retirement products carried out by an authorised insurance undertaking;

"personal retirement product" means an insurance-based investment product which includes a qualifying scheme as defined in the Personal Retirement Scheme Rules, 2014 (S.L 123.163), distributed by an authorised insurance undertaking, the purpose of which is to provide cover for a loss of income due to old age and that:

(a) is funded solely by the individual concerned or any other person, including the Employer, on behalf of the individual policyholder; and,

(b) where the personal retirement product is not a qualifying scheme as defined in the Personal Pension Scheme Rules, 2014, (S.L 123.163), the commencement of payment of Retirement Benefits to a policyholder may not be made on a date that is earlier than that on which such policyholder has attained the age of fifty, or later than that on which the policyholder attains the age of seventy-five;

''retirement benefit'' means benefits paid by reference to reaching, or the expectation of reaching, retirement or, where they are supplementary to those benefits and provided on an ancillary basis;

"retirement product" shall mean an occupational retirement product and a personal retirement product;

''retirement provision business'' means the effecting and carrying out of occupational retirement provision business and, or personal retirement provision business by an authorised insurance undertaking;

"self-employed persons" means all persons pursuing a gainful activity on their own account.

16.4 Risk-Mitigation Techniques

16.4.1 An authorised insurance undertaking shall ensure that, through the use of risk-mitigation techniques, the investment strategy for the retirement product is designed in order to build up a stable and adequate individual future retirement income from the retirement product and to ensure the fair treatment of all policyholders.

16.4.2 An authorised insurance undertaking shall ensure that all risk-mitigation techniques for the retirement product, shall be sound, robust and consistent with the risk profile of the corresponding investment option of the retirement product. The applicable risk-mitigation techniques may include, *inter alia*, provisions:

(a) for gradually adapting the investment allocation to mitigate the financial risks of investments for cohorts corresponding to the remaining duration (life-cycling); or

(b) establishing reserves from contributions or investment returns, which shall be allocated to policyholders in a fair and transparent manner, to mitigate investment losses; or

(c) for using appropriate guarantees to protect against investment losses.

16.5 Investment Risk Management Policy

16.5.1 An authorised insurance undertaking shall, in addition to the requirements stipulated in paragraph 28 of Annex I of Chapter 6 of the Insurance Rules, include in its investment risk management policy:

(a) the investment risk measurement methods adopted by the authorised insurance undertaking;

(b) the risk-management processes implemented by the authorised insurance undertakings;

(c) the strategic asset allocation with respect to the nature of the investment;

(d) the duration of pension liabilities;

(e) how the investment risk policy takes environmental, social and governance factors into account; and

(f) where the retirement product is a unit-linked product, and the authorised insurance undertaking provides a section of investment funds, a list of the investment funds that are available for the policyholder for selection.

16.5.2 An authorised insurance undertaking shall ensure that it reviews the requirements identified in paragraph 16.5.1 annually. The policy is to be revised without delay after any significant change. These requirements shall be made publicly available.

16.6 Additional Requirements on the Approved Actuary

16.6.1 Where an authorised insurance undertaking carrying on retirement provision business as long term with-profits business in terms of Classes I and III of the Second Schedule, the approved actuary of the said undertaking shall, whilst advising or reporting on the exercise of discretion, cover the implications for the fair treatment of the policyholder of a retirement product in a separate assessment. The approved actuary shall report the findings in a separate section in the actuary's report.

16.7 Additional requirements to the Own Risk and Solvency Assessment of an authorised insurance undertaking

16.7.1 An authorised insurance undertaking shall, when conducting its own risk and solvency assessment ("ORSA") in line with the requirements of Section 6.4 of Chapter 6 of the Insurance Rules, take into account its retirement provision business.

16.7.2 In addition to the requirements stipulated in paragraph 6.4.2 of Chapter 6 of the Insurance Rules, the ORSA of an authorised insurance undertaking shall also include:

(a) an assessment of the overall funding needs of the retirement provision business, including a description of the recovery plan, where applicable; and,

(b) an assessment of the risks to policyholders and beneficiaries relating to the paying out of their retirement benefits and the effectiveness of any remedial action taking into account, where applicable:

(i) indexation mechanisms;

(ii) benefit reduction mechanisms, including the extent to which accrued pension benefits can be reduced, under which conditions and by whom.

16.7.3 An authorised insurance undertaking shall include its outcome, for each material risk identified in the ORSA policy particularly in relation to biometric risk and any interdependencies. The envisaged valuation for these risk assessments, short or long-term, should be clearly reflected in the report. The assessment should be forward-looking, considering internal and external emerging developments likely to impact the future risk profile of the authorised insurance undertaking.

16.8 Transfer of the assets of the policyholder

16.8.1 An authorised insurance undertaking shall ensure that a policyholder who opts to transfer its assets to another authorised insurance undertaking shall transfer such assets in cash. The authorised insurance undertaking from which the said policyholder will be transferring its assets is also required to provide the said policyholder with:

(a) retirement rights;

(b) retirement choices;

(c) all applicable charges or direct and indirect fees;

(d) any other information as to their pension rights and choices, in particular that the transfer of such assets shall be made only in cash;

which are available to them under the retirement product prior to any transfer, to enable the policyholders concerned to make an informed decision.

16.8.2 Further to 16.8.1 and prior to the completion of any transfer of assets out of the retirement product, the policyholder shall, as a minimum, be notified by the authorised insurance undertaking to which the policyholder will be transferring its assets with the following information:

(a) information about all the applicable direct and indirect fees and charges imposed by the transferring authorised insurance undertaking relating to the transfer; and,

(b) confirmation that the transfer has been made with another authorised insurance undertaking, together with the details of the new authorised insurance undertaking and the new retirement product.

16.9 Retirement Benefits

16.9.1 An authorised insurance undertaking shall include the manner in which retirement benefits are to be provided to the policyholder in the insurance contract.

16.9.2 An authorised insurance undertaking shall ensure that retirement benefits, other than any benefits paid on death or permanent invalidity of the policyholder, shall be paid in the following forms:

(a) Initial cash lump sum (optional);

(b) Programmed Withdrawals and/or Life Annuity (mandatory);

(c) Additional cash lump sum (optional).

<u>Initial cash lump sum</u>

16.9.3 On the retirement date, a policyholder may elect to take up to 30 per centum of the assets of the policyholder in a retirement product as a cash lump sum. The sum which is determined on retirement date shall be paid either as one lump sum or a series of tranches within one year from retirement date.

Programmed Withdrawals and/or Life Annuity

16.9.4 The remaining assets of a policyholder which are not paid in the form as outlined in paragraph 16.9.3 above shall:

(a) be used towards programmed withdrawals. Programmed withdrawals shall not exceed the maximum amount of drawdown pension rates calculated on the basis amounts published by the competent authority in Annex I to this Chapter as may be amended from time to time; or

(b) be used to purchase a life annuity.

Additional cash lump sum

16.9.5 Where subsequent to a valuation of a policyholder's remaining assets in the retirement product it is established that the assets are more than adequate to generate sufficient retirement income throughout the policyholder's lifetime at valuation date, then 50 per centum of the excess value of such assets as determined by the valuation may be withdrawn as an additional cash lump sum.

16.9.6 The additional lump sum may only be opted for after three years from commencement of the policyholder's retirement benefits, and every year thereafter.

16.9.7 The above shall be without prejudice to any other limitations on withdrawal of retirement assets as specified by any other pensions or taxation legislation to which a retiree is subject to.

16.9.8 In the case where a policyholder is domiciled in Malta, the conditions in paragraph 16.9.5 above, shall only apply where the annual retirement benefit from a retirement product–exceeds €50,000. This value shall be adjusted annually to take account of changes in the index of inflation as published by the National Statistics Office in the Government Gazette of Malta.

16.10 Run-Off of the retirement provision business of an authorised insurance undertaking

16.10.1 Where an authorised insurance undertaking decides to carry out an orderly run-off of its retirement provision business, such undertaking is required to formally inform the competent authority within 180 days before commencing such run-off and provide the competent authority with the following information:

(a) the date as from when such undertaking will be carrying out the run-off;

(b) the classes of business of insurance, and details of the nature of the risks or commitments to be transferred;

(c) the volume of gross and net technical provisions including the underlying cash flows;

(d) an indication of the remaining term run-off or servicing of the business;

(e) confirmation as to whether the authorised insurance undertaking will be carrying out the run-off or servicing of the business or whether it will be appointing an entity to do so. In case of the latter, such undertaking is expected to:

(i) provide the MFSA with the name and details of the entity that will be appointed to carry out the run-off or servicing of the business; and

(ii) enter into a run-off or servicing agreement with the entity appointed to carry our such run-off or servicing. The authorised undertaking shall obtain the Authority's written approval prior to entering into such servicing agreement;

(f) any other information that the Authority may deem necessary to request.