

# Feedback Statement on the Consultation on the Proposed Amendments to the Pension Rules

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## 1.0 Introduction

On 7 December 2023, the MFSA issued a [Consultation Document on the Proposed Amendments to the Pension Rules](#). The Consultation Document proposed to amend a number of Pension Rules issued under the Retirement Pensions Act, in line with findings observed during regulatory work as well as other findings observed by the market whilst carrying out their operations.

Further to the said Consultation Document, the MFSA is issuing a Feedback Statement on the comments received from interested parties in relation to the said Consultation.

## 2.0 Main Comments Received on the Proposed Amendments to the Pension Rules for Occupational Retirement Schemes

### 2.1 Amendments Relating to the Rule on the 20% Investments (Paragraph 4.2.1) (h) (v) of the Pension Rules for Occupational Retirement Schemes

**2.1.1 Industry Comment:** *A market participant quoted paragraph 5.3 of the Consultation Document which clarified that the 20% threshold mentioned in paragraph 4.2.1 (h)(v) of the Pension Rules for Occupational Retirement Schemes is to be applied at SICAV level. The said market participant argued that this will still not reach the objective of diversification.*

**MFSA's Position:** The MFSA would like to clarify that the paragraph 5.3 of the Consultation Document relates to the instance where a fund has more than one sub-fund. In such a case, the MFSA remains of the view that the 20% rule should apply at the level of the fund and not at the level of the sub-fund. The reason for this is that when a person purchases a pension product, the aim is for that product to be able to invest in instruments which will ensure an adequate amount of return. That same return will then be used by persons who reach retirement age to live off the said investment. As a result, it is imperative that the investments are carried out in a properly diversified manner and predominantly invested in regulated markets. The MFSA is of the view that applying the 20% rule at the level of the fund and not at the level of the sub-fund will ensure that members are better protected and ensure diversification between different investments. Nevertheless, the MFSA will review its position when it is conducting the next amendments to the Pension Rules.

**2.1.2 Industry Comment:** *Another market participant argued that the amendment to paragraph 4.2.1 (h)(v) of the Pension Rules for Occupational Retirement Schemes is impractical for pooled schemes. The said market participant argued that collective investment schemes, such as target-dated funds, are inherently diversified instruments, and imposing a rigid 20% cap may hinder the flexibility required for effective fund management. Furthermore, the said market participant argued that investment of scheme assets in other collective investment schemes would benefit scheme members considerably in terms of a number of factors, primarily with regards to the sharing of costs, access to wider spectrum of issuers and impact on returns and existing relationships. Furthermore, the said market participant stated that the general market practice is that pension scheme assets are typically invested in multi fund companies classified as UCITS funds. The said UCITS are licensed and regulated in terms of Directive 2014 /91/EU or equivalent which are subject to a number of restriction thresholds. The said market participant is of the view that the said investment restriction should be eliminated altogether.*

**MFSA's Position:** The MFSA reviewed the feedback received thoroughly and discussed the matter further internally. In this respect, the MFSA remains of the view that for now, the 20% rule should apply at the level of the fund and not at the level of the sub-fund. The MFSA is of the view that a pension product should not be regarded as any other investment product. The reason for a person to purchase a pension product, is for that product to be able to invest in instruments which will ensure an adequate amount of return. As a result, the said pension products should be offered additional protection than any other investment product. It is imperative that the returns generated by the investments are enough so that these may be used by persons who reach retirement age to live off the said investment. As a result, it is imperative that the investments are carried out in a properly diversified manner and predominantly invested in regulated markets. Having said that, the MFSA will review its position when it is conducting the next amendments to the Pension Rules.

## 3.0 Main Comments Received on the Proposed Amendments to the Pension Rules for Service Providers

### 3.1 Amendments Relating to the Declaration and/or Distribution of Dividends

**3.1.1 Industry Comment:** *Clarification was sought as to what type of documents are required to be presented to the MFSA when requesting approval of dividend declaration/distribution and the time-frame that will be adopted to provide this approval.*

**MFSA's Position:** The MFSA would like to clarify that the documents which would be required to be submitted when requesting approval of dividend declaration/distribution are the latest Interim Financial Reports, pre-dividend distribution, and post-dividend distribution including any other information which the MFSA may request on a case by case basis. With respect to timelines, where the Authority has all the information necessary to assess the said declaration and/or distribution, it would be able to provide its approval within three weeks. It is to be noted that when the case is more complex, the MFSA's approval might take a bit longer.

**3.1.2 Industry Comment:** *A market participant argued that the MFSA is already provided with data on dividends within the returns submitted which also show the financial resources of the Retirement Scheme Administrators. Retirement Scheme Administrators are subject to strict rules in terms of segregation of scheme/member assets from the same Retirement Scheme Administrator's assets so it could never be the case that scheme/member assets are used for the purposes of its own dividends. Furthermore, the quarterly Interim Financial Return (Schedule H) and Annual Financial Return, together with the liquidity and solvency requirements, are stringent, and are there to protect the ongoing running of the business. It is also essential to note that RSAs are also required to report solvency to MFSA quarterly, ensuring the MFSA has full visibility. Retirement Scheme Administrators are to include any provisions and contingent liabilities on the face of the Financial Returns, all of which impact the Surplus of Liquid Capital. This in turn impacts the ability to distribute dividends.*

*Retirement Scheme Administrators are also required to submit to the MFSA, annual audited financial statements per scheme, as well as for itself as a service provider. Lastly, the Annual Financial Return is approved by the Auditor before being submitted to the MFSA. We believe that the rules in place are sufficient to ensure that the assets of the members are being protected. In this respect, clarification is sought as to timelines that the Authority will make use of to provide the said approval. In this respect, the industry is concerned about the proposed amendments and seek clarification with respect to timelines and documentation needed and the rationale and benefits achieved by approving such dividends.*

**MFSA's Position:** Primarily, the MFSA would like to point out that the obligation to declare and distribute dividends already exists within the insurance sector. The said obligation used to be a licensing condition and has now been enshrined in the Insurance Rules. With respect to this new obligation under the Pension Rules, the aim for the amendment is the protection of Members of pension products. The documents which would be required to be submitted when requesting approval of dividend declaration/distribution are the latest Interim Financial Reports, pre-dividend distribution, and post-dividend distribution including any other information which the MFSA may request on a case by case basis. When it comes to timelines, where the Authority has all the information necessary to assess the said declaration and/or distribution, it would be able to provide its approval within three weeks.

It is to be noted that when the case is more complex, the MFSA's approval may take a bit longer.

## 3.2 Amendments Relating to Subordinated Loan Agreements

**3.2.1 Industry Comment:** *A market participant requested what type of assurances will the auditor be required to provide to MFSA. Clarification was sought as to whether the assurances referred to relate to the ability of borrower to meet the repayment obligations [capital + interest] of the Borrower.*

**MFSA's Position:** The MFSA would like to clarify that the assurance required by the auditor are those related to the eligibility criteria. The said auditor is required to ensure that the eligibility criteria are met.

## 4.0 Main Comments Received on the Proposed Amendments to the Pension Rules for Personal Retirement Schemes

### 4.1 Amendments to the Approval and Contents of the Amendments to Certain Documents

**4.1.1 Industry Comment:** *A market participant requested a clarification on the term 'material' and 'material changes'. Another market participant argued that the proposed definition of material changes, allows considerable room for interpretation. It is therefore being recommended that the definition is refined in order to reduce doubts that may arise in this regard.*

**MFSA's Position:** Paragraph 2.2 of the Consultation Document stated that the MFSA also proposed to include a definition of the term 'material changes' in the Glossary to the Pension Rules stating that this refers to information that could influence the decision-making or judgement of the intended users of that information. Following the feedback received from the market and upon further internal discussions, the MFSA is amending the definition of material changes in the Glossary to state the following: Material Change means an event, occurrence, change in conditions or circumstances or other change which results or may cause changes or have an effect or an impact or that could influence;

- (a) the strategy, operations and structure of the Scheme; or
- (b) decision-making or judgement of the Member; or
- (c) the Scheme or the Retirement Scheme Administrator from complying with the Act, Regulations and Pension Rules issued thereunder.

Such material changes shall also include any other change which the Retirement Scheme Administrator deems to be material.

For the avoidance of doubt, a change of address is not considered as a material change, but a change in the operation of a scheme such that the business strategy of the Scheme is amended is considered as a material change. The MFSA is after any amendments to the strategy, operations and structure of the Scheme, or any other amendments which the Retirement Scheme Administrator deems to be material.

*4.1.2 **Industry Comment:** A market participant refers to Section 2.3 of the Consultation Document which outlines and welcomes the MFSA's proposal that such documents are only reviewed. Clarification is sought as to whether the documents will be reviewed or approved, as apart from section B.1.1.2, the rest of rules read that the Authority will approve the material changes.*

**MFSA's Position:** The MFSA took note of the comments raised by the market, and amended the term approval with the term review when it comes to Constitutional Document, Scheme Documents and Scheme Particulars. Therefore the Constitutional Document, the Scheme Document and the Scheme Particulars and any material changes thereto will need to be only reviewed by the MFSA. It is to be noted that in line with paragraph 5.3.1 of the Pension Rules for Occupational Retirement Schemes and paragraph 4.3.1 of the Pension Rules for Personal Retirement Schemes, the amendment of any other documents referred to in the Pension Rules will need to be approved.

## 5.0 Main Comments Received on the Proposed Amendments to the Pension Rules on Occupational Retirement Schemes and the Pension Rules on Personal Retirement Schemes

### 5.1 Amendments Related to Programmed Withdrawals

**5.1.1 Industry Comment:** *A number of industry participants are concerned about the effective date of the application for calculations, which in the Consultation Document is indicated as 20th April 2023. Clarification is sought as to whether this date should be understood as 20th April 2024 or any subsequent date following the publication of the Pension Rules. Furthermore, the said participants stated that existing members that joined its schemes on the basis of the existing rules and thus which may be adversely affected by the introduction of a new calculation method. The said market participants requested clarification as to when the new calculation method is to come into force, particularly for those members that are already in programmed withdrawals. The said industry participant assumes that the said calculations will be from the next review date for such members (rather than any such member need to be re-reviewed upon introduction of the legislation), and from the first review date of any member still to commence programmed withdrawals (be it whether they became a member before or after the rule change). If this is not the case, the said market participant is concerned that they may receive concerns/complaints from members that were under the impression that the calculation of the income would be done as per the previous rules, and ask the Authority to consider this accordingly.*

**MFSA's Position:** The date of application for the calculations will be the date of the coming into force of the Pension Rules and the publication of the Circular. Furthermore, the MFSA would like to clarify that the main reason for the introduction of programmed withdrawals is to ensure harmonisation with the insurance sector and to ensure that the same methodology of withdrawal is used in the insurance and pensions sector. Following the feedback received, the MFSA discussed the feedback further internally and agrees that the new programmed withdrawal calculations should only apply to members who have not yet started withdrawing. Therefore, those members who have already started withdrawing and are already using the GAD rates or any other publicly available drawdown rates may continue using the same GAD rates or any other rates which they were using before the coming into force of these Pension Rules. This is being done so as not to prejudice members who have already started withdrawing from such retirement schemes.



With respect to members who have been sold the product, but have not yet commenced withdrawing retirement benefits, the said members would need to make use of the programmed withdrawals once they start withdrawing benefits. Current and new members of such retirement schemes are to be informed of these changes.

**5.1.2 Industry Comment:** *An industry participant requested guidance as to how to handle situations where members have already received a calculation valid for a period of three years. Clarification is sought as to whether the calculations are expected to remain valid until expiry, or whether the MFSA recommends re-calculation using the provided rates upon the anniversary date.*

**MFSA's Position:** Upon further internal discussions, it was agreed that with respect to members who have already commenced withdrawing retirement benefits and who are already making use of publicly available drawdown rates, the said members may continue to make use of the GAD rates or any publicly available drawdown rates. With respect to members who on the date of publication of the said Rules have not yet commenced withdrawing retirement benefits, whether such members have been sold the product a number of years ago or whether the product has been recently sold, these members would need to make use of the new programmed withdrawals published. Therefore, whether or not the calculations referred to in the request above remain valid depend on whether the member has already commenced withdrawing retirement benefits. Where the member has not yet commenced withdrawing any retirement benefits, whether it's the initial drawdown or the programmed withdrawals, the calculations would need to be amended in line with the new requirements.

**5.1.3 Industry Comment:** *A number of market participants also highlighted that there are currently no contemplated modifications to the capped drawdown rules, particularly with regard to facilitating trivial commutation. As a result, a large number of clients are now paying more in fees to Retirement Scheme Administrators than they can draw down in income. The said market participants proposed a number of changes to the Pension Rules. Furthermore, the said market participants claimed that there is currently a lack of provisions addressing cases of ill-health and terminally ill members. In such scenarios, we kindly request the Authority to consider implementing provisions for an enhanced payment or full commutation.*

**MFSA's Position:** The MFSA takes note of the suggestions of the market, however since the suggestions were not proposed in the Consultation Document issued, and require further analysis from the MFSA, at this stage, the Pension Rules will not be amended in line with these proposals. Nevertheless, the MFSA will be taking into account these proposals with the next set of amendments.

**5.1.4 Industry Comment:** *A number of market participants are concerned that the amendments go beyond the nature, role and licence of a Retirement Scheme Administrator which is not that of an investment adviser/investment manager. These modifications necessitate the Retirement Scheme Administrator to compile comprehensive information about their clients' financial position, knowledge, experience, objectives, and risk appetite. Retirement Scheme Administrators unequivocally lack the required license and competence to offer guidance or proactively manage clients' investments through portfolio application or risk reduction. The RSA's regulatory framework does not permit for the assessment of the appropriateness of client portfolios in relation to their risk profiles. This responsibility squarely resides within the domain of the client's investment adviser or manager and cannot also lie with the RSA without creating a conflict that is not in the member's interest.*

*The said market participants also stated that the proposed amendments are not in sync with the scope of a member-directed personal pension scheme, which is that of allowing a member to direct his own member account in line with his own investment risk profile and financial needs and requirements. These changes would deviate from the core principles of a member-directed scheme, which is designed to empower members to control and manage their investments in alignment with their preferences and risk tolerance, guided by the expertise of investment advisers or managers B.8.2(a) and B.8.2(b).*

*A market participant stated that their members are in the main, wealthy individuals who also have other sources of income and are not necessarily dependent on this pension such that the capital needs to be 'locked in' to be able to provide an income for them. As a result, to restrict the investment potential of the capital by obliging a member to de-risk would likely be a significant deterrent for individuals to become members of Malta based pension schemes.*

*The said market participant argued that they are not in agreement with Standard Licence Condition B.5.4.3, which would entail that the RSA may seem to be pushing the member to reduce his risk profile, as this will definitely lead to complaints from members. Concern was also raised that there may also be complaints due to loss of potential growth of the portfolio due to de-risking (if a member chooses to retire at age 55 this potentially could mean many years of reduced potential growth) and also costs related to fund changes within the portfolio.*

*Furthermore, this would also go against the scheme's status as a member-directed scheme as the RSA would be deemed to be directing the risk profile of the member.*

*The said market participant stated that investment advisers and, or investment managers are required to periodically review the member, and also the portfolio under their advice/management, and ensure that the portfolio continues to reflect the investment risk profile and financial needs and requirements of the member. Where de-risking is necessary*

*due to certain circumstances, then the investment advisers and, or investment managers will ensure that the portfolio is de-risked accordingly as a matter of course.*

**MFSA's Position:** Primarily, it is to be noted that the primary reason of the proposed amendments was to address the concerns of the MFSA where there were significant lacunas to review the risk profile of the members. The amendments were carried out to strengthen this particular area. Whilst it is the role of the investment manager to provide investment advice / investment management information, it is to be noted that B.1.3.1 of the Pension Rules for Personal Retirement Schemes states that the Retirement Scheme Administrator is the person who is ultimately responsible for the overall operation and administration of the Scheme. The Retirement Scheme Administrator is also obliged to ensure that Schemes have an adequate oversight process in place to ensure that the investments being selected by the investment manager or the advisor reflect the investment profile of the member. The MFSA is of the view that in order for the Retirement Scheme Administrator to conduct adequate oversight, the Retirement Scheme Administrator is expected to collate meaningful information and data. The collation of that information can come from the data owned by the investment manager or investment advisor. The MFSA is not expecting Retirement Scheme Administrator to manage client investments but to establish an adequate monitoring process to ensure that their investments are in line with the risk profile.

The MFSA understands that the primary scope for purchasing a pension scheme is to purchase another investment vehicle. The aim of a pension scheme is to set up a pot by means of which investments will provide an income for retirement, and not as an investment vehicle. As such, members who have these types of products need to be protected to ensure that the monies invested in their pots are well invested. The MFSA is concerned to note that in some instances, the product appears to be used as an investment vehicle rather than a pension product.

Finally, it is to be noted that the proposed new Standard Licence Condition B. 5.4.3 of the Pension Rules for Personal Retirement Schemes requires the Retirement Scheme Administrator to commence de-risking the investments **unless otherwise indicated by the Member after obtaining professional advice**. Therefore, the Member can always decide not to commence de-risking the investments. The MFSA is of the view that de-risking should still commence as from five years before the member reaches the agreed retirement age in order to protect the investment of the said member, however it is up to the member after obtaining the necessary professional advice to decide. Furthermore, upon further internal discussions, a new proviso will be included in the said Standard Licence Condition B. 5.4.3 of the Pension Rules for Personal Retirement Schemes to clarify that the requirement to apply professional advice as to whether or not to de-risk the investments of a Member shall not apply where the Member is a professional member.

**5.1.5 Industry Comment:** *Clarification is sought as to what is meant by 'de-risking the portfolio' and what type of investments would be suitable, especially given the requirement in the Rules for the pension assets to be suitably diversified. We would also need clarification if such rules would be applied to 'professional members' and any actions to be taken by the Retirement Scheme Administrators if the member does not reply within the stipulated time-frame.*

**MFSA's Position:** It is to be noted that the Authority cannot be prescriptive in the type of investments within which a pension scheme should invest. However, by de-risking, the Authority expects the Retirement Scheme Administrator to ensure that adequate action is taken so that the accumulated pension pot is conserved in the best possible way, without taking undue risks on the investments in the last years of the accumulation period.

It is to be noted that the proposed new Standard Licence Condition B. 5.4.3 of the Pension Rules for Personal Retirement Schemes requires the Retirement Scheme Administrator to commence de-risking the investments **unless otherwise indicated by the Member after obtaining professional advice**. Thus, a member can always decide not to commence de-risking the investments. The MFSA is of the view that de-risking should still commence as from five years before the member reaches the agreed retirement age in order to protect the investment of the said member, however it is up to the member after obtaining the necessary professional advice to decide. Furthermore, a new proviso will be added to Standard Licence in Standard Licence Condition B. 5.4.3 of the Pension Rules for Personal Retirement Schemes to clarify that the requirement to apply professional advice as to whether or not, to de-risk the investments of a Member shall not apply where the Member is a professional member.

With respect to the actions which a Retirement Scheme Administrator may take should members not reply within the stipulated time-frames it is to be noted that it is up to the Retirement Scheme Administrator to stipulate the actions which it may take in such circumstances. The legislation clarifies in B.1.3.1 of the Pension Rules for Personal Retirement Schemes that the Retirement Scheme Administrator is the person who is ultimately responsible for the overall operation and administration of the Scheme.

**5.1.6 Industry Comment:** *Clarification is also sought as to what is meant by the term 'conservative manner'. Clarification is also sought as to what type of actions can be taken by the Retirement Scheme Administrator should the portfolio not be invested in a 'conservative manner'.*

**MFSA's Position:** The MFSA would like to clarify that the rest of the funds shall remain invested in a suitably conservative manner is that the Authority expects that the Retirement Scheme Administrator ensures that adequate action is taken so that the accumulated pension pot is conserved in the best possible way without taking undue risks on the

investments in the last years of the accumulation period. The MFSA is concerned to note that in some instances, the product appears to be used as an investment vehicle rather than a pension product.

*5.1.7 **Industry Comment:** Clarification is sought as to what is meant by an "agreed retirement age".*

**MFSA's Position:** Retirement age is a range and not a particular age. Where the scheme is a qualifying scheme under the [Voluntary Occupational Pension Scheme Rules \(S.L. 123.175\)](#) or the [Personal Retirement Scheme Rules \(S.L. 123.163\)](#), the retirement age is an age from 61 to 70 years old. Where the scheme is not a qualifying scheme, retirement age is a period from 50 years of age to 75 years of age as stipulated in the Pension Rules. Since the age is a range, it would mean that there needs to be agreement between the Member and the Retirement Scheme Administrator as to the age when the member can start withdrawing from the fund.

*5.1.8 **Industry Comment:** Clarification is sought as to what is meant by "stipulated period".*

**MFSA's Position:** A stipulated period is the period of time which the Retirement Scheme Administrator agrees to and indicates in the Scheme Particulars by when members would need to inform the Retirement Scheme Administrator that they have obtained professional advice as to whether or not they will be de-risking their investments. The MFSA did not want to be prescriptive within the time period and wanted to allow Retirement Scheme Administrators to decide what would be an adequate period of time. The MFSA notes that it would need to be a reasonable time, however the MFSA left it up to the Retirement Scheme Administrators to decide.

*5.1.9 **Industry Comment:** An industry participant stated that assuming all members will retire at the scheme's minimum retirement age, implementing de-risking strategies universally at this age would be imprudent, as not all members may choose to retire at or near the minimum retirement age. In addition, not all members in retirement will want to implement de-risking investment strategies. Ultimately the Members on the advice of their investment adviser or managers direct their own investments according to their investment objective and attitude to risk.*

**MFSA's Position:** Primarily it is to be noted that retirement age is a range, and that it would need to be agreed to between the Retirement Scheme Administrator and the member. Moreover, it is to be noted that the proposed new Standard Licence Condition B. 5.4.3 of the Pension Rules for Personal Retirement Schemes requires the Retirement Scheme Administrator to commence de-risking the investments **unless otherwise indicated by the Member after obtaining professional advice**. Thus, a member can always decide not to commence de-risking the investments. The MFSA is of the view that de-risking should still

commence as from five years before the member reaches the agreed retirement age, in order to protect the investment of the said member, however it is up to the member after obtaining the necessary professional advice to decide.

**5.1.10 Industry Comment:** *A market participant proposed that to ensure that members are made aware of the importance of aligning their investment decisions to their retirement plans, we propose adopting an approach taken by UK SIPP providers, whereby retirement 'wake up letters' are issued to members and their investment advisers or managers within specific timeframes in advance of their intended retirement age. The letter would be issued by Retirement Scheme Administrators to specifically highlight the concerns the Authority are seeking to address. The letter could be issued a number of times in the 5year period approaching their retirement specifically highlighting to the Member that they are approaching their indicated retirement age, the importance of seeking on going advice and reviewing their investments to ensure they are appropriate as they approach their retirement age and in meeting their retirement objectives. The letter could also explain the concept/importance of de-risking and to discuss de-risking strategies with their investment adviser and any other matters the Authority feel should be highlighted This type of communication could also be issued annually by RSAs to their members post retirement reiterating the above at least annually to members.*

**MFSA's Position:** The MFSA would like to clarify that this is what the MFSA had in mind, in fact, Standard Licence Condition 5.4.3 of the Pension Rules for Personal Retirement Schemes states that "*The Retirement Scheme Administrator shall, at an adequate time, but no later than five years before the Member reaches the agreed retirement age, **inform** the Member that the said Retirement Scheme Administrator shall commence de-risking the investments of the Member....*".

## 6.0 Main Comments Received on the Glossary

### 6.1 Comments Related to Amendments to the Glossary

**6.1.1 Industry Comment:** *A market participant commented that the use of capital letters for certain terms, such as "Member" and "member," introduces confusion. While "Member" is a defined term, the use of "member" in the Glossary prompts questions about its scope. Clarification on these distinctions is sought, and we propose a consistent approach to avoid ambiguity. Similar concerns arise with terms like "Retirement Scheme/retirement scheme," "Collective Investment Schemes/collective investment schemes," and "Retirement Benefit/retirement benefit."*

**MFSA's Position:** The MFSA took note of the comments raised by the market and reviewed the Glossary to ensure that whenever reference is being made to a definition, the said text is capitalised to ensure a consistent approach.

**6.1.2 Industry Comment:** *An industry participant stated that there are three separate definitions of "Assets Held..." in the Glossary, and it is unclear why this redundancy exists. Additionally, the second and third definitions could be interpreted as encompassing the RSAs' own assets rather than solely referring to assets held in a fiduciary capacity. We request clarification on this point to ensure accurate interpretation.*

**MFSA's Position:** The MFSA would like to clarify that the term "Assets held Under Administration" has been included since the term is referred to in Standard Licence Condition 4.8.18 and 4.8.20(a) of the Pension Rules for Service Providers. The term "Assets Held Under Administration and Custody" has been introduced since the term is referred to in Standard Licence Condition 4.8.20(b) and 4.8.22 of the Pension Rules for Service Providers. Whilst the term "Assets held Under Custody" has been included since the term is referred to in Standard Licence Condition 4.8.23 of the Pension Rules for Service Providers. The terms have been included due to the new amendments introduced for Professional Indemnity Requirements. The text in the Pension Rules has now been capitalised to ensure unambiguity.

**6.1.3 Industry Comment:** *A market participant claimed that with respect to the definition of "Independent Qualified Valuer", the Glossary suggests that a person holding a warrant to practice as a building professional (architect) is qualified to value a property. We request the Authority to consider accepting evaluations from individuals recognized as equivalent to architects in the country where the property is held.*

**MFSA's Position:** The MFSA would like to clarify that the term "Independent Qualified Valuer" has already been defined and also includes evaluations from individuals recognised as equivalent, where the definition states that *"where the qualified valuer is a person whose country of domicile is a country outside Malta, a person who is duly qualified and authorised in the country of his domicile to practise as a building professional (equivalent to an architect) under the laws of the country of his domicile governing architecture and civil engineering professionals acceptable to the MFSA."*

**6.1.4 Industry Comment:** *Another industry participant noted that the term Back-Office Administrator is still included in the Glossary, however the use of 'Back-Office Administrators' has been abolished.*

**MFSA's Position:** The MFSA took note of the comments received from the market and will be removing the definition of 'Back-Office Administrators'.

6.1.5 **Industry Comment:** *A market participant claimed that in section B.8.6.(b)(i)(bb)(ii) of the Pension Rules for Personal Retirement Schemes, the term "discretionary fund manager" is introduced. However, this term has not been previously defined in the rules, and there is no corresponding entry in the glossary. Clarification is sought on the definition of "discretionary fund manager" to ensure a consistent and accurate interpretation of the regulations.*

**MFSA's Position:** Upon further internal discussions, it is to be noted that a Discretionary Fund Manager (a DFM) and an Investment Manager are one and the same. The latter operating in consultation with their client and the former on his/her own volition, for example, by exercising their professional discretion (i.e. to buy and sell investments on their clients behalf). The Authority is of the view that such a definition is not required, since when issuing previous consultations there have been no issues or concerns raised by other market participants and therefore it is our understanding that RSAs have an adequate understanding of the different terms.

## 7.0 Way Forward

A Circular informing market participants on the applicability of the proposed amendments to the Insurance Rules and the Insurance Distribution Rules will be issued together with this Feedback Statement.

## 8.0 Contacts

Any queries or requests for clarifications in respect of the above should be addressed by email on [ipsu@mfsa.mt](mailto:ipsu@mfsa.mt).