

Private Pension Schemes (administration) rules 2014

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THE PRIVATE PENSION SCHEMES ACT 2012

FSC Rules made by the Financial Services Commission under section 93 of the Financial Services Act 2007 and sections 17(1)(b), 26(3) and 27 of the Private Pension Schemes Act 2012.

PART I - PRELIMINARY

1. Citation

These Rules may be cited as the **Private Pension Schemes (Administration) Rules 2014**.

2. Interpretation

In these Rules —

“Act” means the Private Pension Schemes Act 2012;

“administrator” means a pension scheme administrator or any person authorised to administer a private pension scheme pursuant to section 27 of the Act;

“pension scheme administrator” means a person licensed by the Commission to administer a private pension scheme;

“service provider” means a person licensed, authorised, approved or registered under the relevant Acts or the Banking Act 2004 to provide financial services.

3. Application of the Rules

- (1) These Rules shall apply to the administration of a private pension scheme licensed under section 9 or 12 of the Act.
- (2) These Rules are not exhaustive and should be read in conjunction with the Act, other relevant Acts, regulations and FSC Rules made under those Acts and codes or guidelines which the Commission may issue from time to time.

PART II - LICENSING AND AUTHORISATION TO ADMINISTER

4. Pension Scheme Administrator

- (1) Subject to section 27 of the Act, no person shall carry out, or hold himself as carrying out any function of a pension scheme administrator in Mauritius without a licence issued by the Commission.
- (2) An application for a pension scheme administrator licence shall be made in accordance with Part IV of the Financial Services Act 2007.
- (3) Where the Commission is satisfied that the requirements specified in the relevant Acts are complied with, it may, subject to the payment of such fees as may be specified in FSC Rules, issue a licence allowing the applicant to carry out the financial business activity of pension scheme administrator.

5. Authorisation to administer

- (1) An application for the authorisation to administer a private pension scheme by a governing body shall be made in accordance with rule 10 of the Private Pension Schemes (Governance) Rules 2012.
- (2) An application for the authorisation to administer a private pension scheme by a long-term insurer shall be made in such form and manner as may be determined by the Commission and shall be accompanied by-

- (a) a business plan of the administration services to be provided, demonstrating that the applicant has the adequate professional and technical knowledge, experience or operational ability to perform the services; and
 - (b) any other information that the Commission may deem necessary.
- (3) Where the Commission is satisfied that a long-term insurer has the capacity to administer a private pension scheme, the Commission may grant an authorisation under section 27 of the Act on such terms and conditions as it deems fit and on payment of such fees as may be specified in FSC Rules.

6. Notification to the Commission

An applicant for an authorisation to administer a private pension scheme shall notify the Commission of any material change which may have occurred before or after the granting of an authorisation within 15 days of the date of such material change.

PART III - APPOINTMENT, POWERS, DUTIES AND FUNCTIONS OF ADMINISTRATOR

7. Appointment

Any governing body of a private pension scheme shall ensure that the scheme is administered, at all times, by an administrator appointed in accordance with the Act, these Rules and any other relevant Acts.

8. Power to request information

- (1) An administrator may request any information relevant to its functions of administering a private pension scheme from the governing body, sponsoring employer, professional advisers or other service providers of the scheme.
- (2) Any governing body, sponsoring employer, professional adviser or other service provider of a private pension scheme shall furnish to the administrator any information requested pursuant to paragraph (1) within 30 days of such request.

9. Duties and Functions of an administrator

- (1) An administrator of a private pension scheme shall
 - (a) administer the scheme in accordance with the Act, these Rules, other relevant Acts, regulations and FSC Rules made under those Acts and the constitutive documents of the scheme;
 - (b) act in the best interests of beneficiaries of the scheme; and
 - (c) use the funds of the scheme only for the purposes referred to in section 24(1) of the Act.
- (2) The appointment of an administrator to a private pension scheme shall be governed by a written service agreement which shall contain the duties and functions of the administrator.
- (3) The duties and functions of an administrator of a private pension scheme shall include -
 - (a) the collection of contributions;
 - (b) the preparation and maintenance of a schedule of contributions;
 - (c) maintaining membership records with monthly updates of fund values, salaries and membership movements;
 - (d) verifying the authenticity of information received from a sponsoring employer;
 - (e) arranging for contributions to be transferred to the scheme's custodian and to the persons appointed for managing or investing the assets of the scheme;
 - (f) arranging for payment of insurance premiums, where applicable;

- (g) issuing annual individual benefit statements to members of the scheme;
 - (h) issuing statements to early leavers of the scheme;
 - (i) calculating and arranging for payment of contribution refunds, deferred pensions and transfer values, as the case may be;
 - (j) calculating and arranging for payment of death or disability benefits, where applicable;
 - (k) calculating and arranging for payment of pension benefits;
 - (l) ensuring that beneficiaries are still alive before effecting payment of their pension benefits;
 - (m) preparing annual accounts for the scheme;
 - (n) assisting the scheme's auditor in carrying out the annual audit of the scheme, including internal controls and systems;
 - (o) communicating membership data and information to the professional advisers of the scheme, as may be required;
 - (p) preparing and issuing of individual pension increase letters to pensioners, if applicable;
and
 - (q) performing any other task relevant to its functions or which may be required by the Commission.
- (4) An administrator of a private pension scheme shall administer the scheme with due care, diligence, and skill that a reasonably prudent person would exercise in dealing with the property of another person.
- (5) Where a sponsoring employer of a private pension scheme fails to remit any contribution due to the scheme, for two consecutive months, the administrator of the scheme shall

make a written request for payment from the sponsoring employer.

- (6) Where the administrator fails to recover the contribution due from the sponsoring employer within 30 days from the date of the written request referred to in paragraph (5), it shall forthwith notify the governing body and the Commission.
- (7) An administrator shall maintain —
 - (a) written policies and procedures for its duties and functions under these Rules;
 - (b) adequate internal control systems and processes; and
 - (c) processes aiming at preventing money laundering and combatting financing of terrorism in accordance with any enactment or guideline issued by the Commission.
- (8) An administrator of a private pension scheme shall avoid or otherwise disclose to the governing body of the scheme any conflict or potential conflict of interest in its functions.
- (9) Any record, document and information relating to the administration of a private pension scheme and its beneficiaries that are held by an administrator or are under an administrator's control, shall be the property of the scheme.

10. Additional functions of an administrator

- (1) An administrator of a private pension scheme shall furnish to the Commission such information and produce such records or documents at such time and place as may be required by the Chief Executive.
- (2) The Commission may require an administrator of a private pension scheme to perform any specific task it deems necessary to protect the interest of beneficiaries.
- (3) A private pension scheme shall bear the costs of any task which its administrator is

required to perform pursuant to paragraph (2).

PART IV - RESIGNATION OR TERMINATION OF ADMINISTRATOR

11. Resignation

- (1) Where a pension scheme administrator or long-term insurer administering a private pension scheme intends to resign, it shall provide a written notice to the governing body of the private pension scheme at least 90 days before the effective date of such resignation.
- (2) The governing body of a private pension scheme shall notify the Commission in writing, within 15 days of receiving the notice of the resignation referred to in paragraph (1).
- (3) Where the pension scheme administrator or long-term insurer administering a private pension scheme resigns otherwise than by reason of expiry of the term of office, the governing body of the scheme shall inform the Commission of the reason for and circumstances of such resignation.
- (4) Notwithstanding paragraph (3), the Commission may request —
 - (i) any member of the governing body of a private pension scheme;
 - (ii) an administrator or any employee of an administrator of a private pension scheme;
 - (iii) any beneficiary or member of a private pension scheme;
 - (iv) any sponsoring employer of a private pension scheme; or
 - (v) any professional adviser of a private pension scheme,

to provide any information and opinion on the circumstances of resignation of a former administrator of a private pension scheme.

- (5) The governing body shall, subject to these Rules, appoint another administrator within 90 days from the date of the notice referred to in paragraph (1).
- (6) Notwithstanding any private agreement, a resignation of an administrator of a private pension scheme shall be deemed to be effective and the administrator shall be relieved of its functions as from the date of the appointment of another administrator.

12. Termination of appointment by governing body

- (1) Where the governing body of a private pension scheme intends to terminate the appointment of a pension scheme administrator or long-term insurer administering the scheme, it shall provide a written notice of at least 90 days to the pension scheme administrator or long-term insurer before the effective date of such termination.
- (2) The governing body of a private pension scheme shall notify the Commission in writing of the intended termination referred to in paragraph (1), within 15 days of the resolution to terminate the appointment.
- (3) The notification referred to in paragraph (2), shall contain the details of the circumstances of the termination of appointment.
- (4) Notwithstanding any private agreement, the termination of the pension scheme administrator or long-term insurer administering a private pension scheme shall be deemed to be effective and the pension scheme administrator or long-term insurer shall be relieved of its functions as from the date of the appointment of another administrator.

13. Termination of appointment by Commission

- (1) Subject to paragraph (2), the Commission may require-
 - (a) the governing body of a private pension scheme to terminate the appointment of

the administrator of the scheme; or

- (b) in the case where the governing body is the administrator of the scheme, require the governing body to cease its administration functions.
- (2) The Commission shall not request a governing body to terminate an appointment referred to in paragraph (1) without giving the governing body and the administrator reasonable opportunity to make representations on the matter.

14. Report to the Commission

- (1) Subject to paragraph (2), upon the termination of appointment of an administrator of a private pension scheme, the administrator shall submit a report to the Commission within 30 days of the termination, containing-
- (a) details of all documents in possession of the administrator, including the assets register, minute books, beneficiaries' records and all other records pertaining to the scheme which have been transferred to the governing body of the scheme or the newly appointed administrator;
 - (b) full particulars of any document or record pertaining to the scheme which has not been transferred, reasons for failure to transfer and proposed dates on which the outstanding documents or records will be transferred; and
 - (c) the date and location of such transfer and the name of the members of the governing body or person at the newly appointed administrator to whom the documents referred to in subparagraph (a) have been transferred.
- (2) Where the administrator has an obligation pursuant to any other enactment to retain any document or record, certified copies of the documents or records referred to in paragraph (1) shall be transferred to the governing body of the scheme or the newly appointed administrator.

PART V - MISCELLANEOUS

15. Withdrawal of Authorisation

- (1) Without prejudice to any other enactment and subject to paragraph (2), the Commission may withdraw the authorisation granted under section 27 of the Act where the Commission has reason to believe that —
 - (a) any of the requirements for the granting of authorisation is no longer satisfied;
 - (b) it is not in the interest of the beneficiaries or potential beneficiaries for the governing body or long-term insurer to continue to administer the private pension scheme; or
 - (c) the governing body or the long-term insurer has, at the time of application for authorisation, knowingly submitted information which is false and misleading or has intentionally omitted to submit material information.
- (2) The Commission shall not withdraw an authorisation under paragraph (1) unless it gives the governing body or long-term insurer-
 - (a) prior notice of its intention and reasons for doing so; and
 - (b) a reasonable opportunity to make representations on that matter.

16. Commencement

These Rules shall come into operation on 1st September 2014.

Made by the Financial Services Commission on 9th July 2014.