

The text below is an internet version of the Rules made by the FSC under section 93 of the Financial Services Act 2007 and sections 9, 10, 12 and 39 of the Private Pension Schemes Act 2012 and is for information purposes only. Whilst reasonable care has been taken to ensure its accuracy, the authoritative version is the one published in the *Government Gazette* of Mauritius.

PRIVATE PENSION SCHEMES (LICENSING AND AUTHORISATION) RULES 2012

FSC Rules made by the Financial Services Commission under section 93 of the Financial Services Act 2007 and sections 9, 10, 12 and 39 of the Private Pension Schemes Act 2012 .

PART I - PRELIMINARY

1. Citation

These Rules may be cited as the Private Pension Schemes (Licensing and Authorisation) Rules 2012.

2. Interpretation

In these Rules –

“Act” means the Private Pension Schemes Act 2012;

“appropriate retirement age” means –

- (i) in case a member retires on or after the age of 50, the actual age of retirement;
- (ii) in case of early retirement on grounds of ill health, the actual age of retirement; or
- (iii) in case of retirement before the age of 50, the age of 50 or such other age the Commission considers reasonable having regard to the nature of employment or occupation of members of the private pension scheme;

“authorisation” means an authorisation granted by the Commission under section 10 of the Act;

“beneficiary” has the same meaning as in the Act;

“Commission” has the same meaning as in the Financial Services Act 2007;

“constitutive documents” has the same meaning as in the Act;

“discriminate” refers to discrimination on basis of race, colour, creed, caste, sex, HIV status, place of origin, national extraction or social origin, sexual orientation and political opinion;

“external pension scheme” has the same meaning as in the Act;

“FSC Rules” has the same meaning as in the Act;

“foreign pension scheme” has the same meaning as in the Act;

“individual pension scheme or plan” means a scheme or plan referred to in Part 1 of the First Schedule to the Insurance Act 2005 that provides for a lump sum payment not exceeding one-fourth of the annual pension payable at retirement;

“pension benefit” has the same meaning as in the Act;

“pension scheme” has the same meaning as in the Act;

“private pension scheme” has the same meaning as in the Act;

“relevant Acts” has the same meaning as in the Financial Services Act 2007.

3. Application of the Rules

- (1) These Rules shall apply to the licensing and authorisation of private pension schemes under 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 OF PRIVATE PENSION SCHEMES

4. Application for a licence under the Act

- (1) An application for a licence under sections 9 and 12 of the Act shall be made by the governing body of the applicant as set out in the FSC Rules and shall be accompanied by –
 - (a) the information and documents specified in section 9 of the Act;
 - (b) other information and documents mentioned in Part 1 of the Schedule; and
 - (c) the processing fee specified in the Financial Services (Consolidated Licensing and Fees) Rules 2008.

- (2) On receipt of an application, the Commission may require the applicant or any member of the governing body to provide such additional information or documents as it may require for determining the application.

5. Issue of a licence

- (1) The Commission, on being satisfied that the applicant satisfies all the requirements for licensing, and on payment of the processing fee specified in the Financial Services (Consolidated Licensing and Fees) Rules 2008, shall issue a licence on such conditions as it deems fit.
- (2) The Commission shall not issue a licence unless it is satisfied that -
 - (a) the applicant complies with the provisions of 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;
 - (b) no prejudice would be caused or would ensue to the financial services industry or any part thereof or to the public, if the licence is issued;
 - (c) there are adequate safeguards to protect the interests of beneficiaries;
 - (d) the applicant does not discriminate amongst beneficiaries; and
 - (e) the constitutive documents of the applicant at least provide -
 - (i) that the sole purpose of the applicant is to provide pension benefits to beneficiaries;
 - (ii) for the payment of pension benefits only after attaining the appropriate retirement age;
 - (iii) clear conditions for early retirement on the grounds of ill health;
 - (iv) that in the case where -
 - (A) the monthly pension is more than Rs. 500, no more than one-fourth of the pension payable under the scheme at retirement may be exchanged for a lump sum payment; and
 - (B) the monthly pension is less than Rs. 500, the entire pension payable under the scheme at retirement may be exchanged for a lump sum payment;
 - (v) the conditions of eligibility and termination of membership of the scheme;

- (vi) clear conditions of specific events on which pension benefits may be paid, deferred, withdrawn or transferred;
 - (vii) clear computation of pension benefits which are understandable to beneficiaries; and
 - (viii) for requirements described in paragraph (3), where applicable.
- (3) The Commission shall not issue a licence to a private pension scheme sponsored by an employer unless its constitutive documents provide for the following –
- (a) where a member leaves the employment of the sponsoring employer before completing 2 years of service, he shall be entitled to a refund of his accumulated contributions unless the value of his accrued benefits from previous employment has been transferred to the scheme;
 - (b) where a member leaves the employment of the sponsoring employer before 2 years of service and the value of his accrued benefits from previous employment has been transferred to the scheme, the current total value of his accrued benefits shall be retained in the scheme until payment of pension benefits at the appropriate retirement age or shall be transferred to any other private pension scheme or an individual pension scheme or plan; and
 - (c) where a member leaves the employment of the sponsoring employer after 2 years of service, the current total value of his accrued benefits shall be retained in the scheme until payment of pension benefits at the appropriate retirement age or shall be transferred to any other private pension scheme or an individual pension scheme or plan.
- (4) Without prejudice to the above, the Commission shall, upon issuing a licence, take into account the ability of the scheme to maintain –
- (a) adequate internal control systems and processes; and
 - (b) procedures aiming at preventing money laundering.
- (5) A private pension scheme shall, upon issuance of its licence, at all times adhere to the provisions of 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.
- (6) A licence issued under the Act shall be valid and have effect from the date of its issuance or from such other date as may be determined by the Commission and shall continue to be valid and have effect until suspended, terminated or revoked.

PART III – AUTHORISATION OF FOREIGN PENSION SCHEMES

6. Application for authorisation of a foreign pension scheme

- (1) An application for the authorisation of a foreign pension scheme under section 10 of the Act shall be made by the agent of the applicant and shall be accompanied by -
 - (a) the applicable information and documents specified in section 9 of the Act;
 - (b) other information and documents mentioned in Part 2 of the Schedule; and
 - (c) the processing fee specified in the Financial Services (Consolidated Licensing and Fees) Rules 2008.
- (2) The Commission may, in processing an application for the authorisation of a foreign pension scheme, require the agent of the applicant to –
 - (a) submit to the Commission further information in connection with the application in such form and manner as it may determine; and
 - (b) have such information verified at the cost of the applicant in such manner and by such persons as the Commission may determine.

7. Granting of authorisation

- (1) The Commission, on being satisfied that the applicant satisfies all the requirements for authorisation, and on payment of the processing fee specified in the Financial Services (Consolidated Licensing and Fees) Rules 2008, shall grant the authorisation on such conditions as it deems fit.
- (2) The Commission shall not authorise an applicant unless it is satisfied that –
 - (a) an agent has been duly appointed by the applicant;
 - (b) the applicant complies with the regulatory framework in the jurisdiction where it is established and regulated;
 - (c) once authorised, the applicant will have made adequate arrangements to satisfy the requirements applicable to a foreign pension scheme under the Act, other relevant Acts, regulations and FSC Rules made under those Acts and codes or guidelines issued by the Commission from time to time; and
 - (d) no prejudice would be caused or would ensue to the financial services industry or any part thereof or to the public in Mauritius, if the authorisation is granted.

- (3) An authorisation granted to a foreign pension scheme shall be valid and have effect as from the date of authorisation or such other date as may be determined by the Commission and shall continue to be valid and have effect until suspended, terminated or revoked.

PART IV – MISCELLANEOUS

8. Commencement

These Rules shall come into operation on 1st November 2012.

Made by the Financial Services Commission on 31st October 2012.

SCHEDULE

[Rules 4(1) and 6(1)]

DOCUMENTS AND INFORMATION TO ACCOMPANY APPLICATION

Part 1 - Pension scheme and external pension scheme

The governing body of an applicant shall for the licensing of a private pension scheme, file with the Commission –

1. a duly completed and signed application form;
2. a certified copy of the resolution of the governing body authorising two members of the governing body to sign the application form;
3. a copy of the constitutive documents of the private pension scheme;
4. duly completed and signed personal questionnaires of each member of the governing body;
5. a copy of the written investment policy of the applicant, where applicable;
6. all contractual agreements between the governing body and third parties, where applicable;
7. latest audited financial statements of the private pension scheme, where applicable;
8. latest actuarial valuation report of the private pension scheme, where applicable;
9. any leaflets or other informative documents including advertising material meant for members or prospective members; and
10. any other information or document required by the Commission upon application.

Part 2 - Foreign Pension Scheme

The agent of an applicant shall for the authorisation of a foreign pension scheme, file with the Commission –

1. a certified copy of the resolution of the governing body authorising the agent to act on behalf of the foreign pension scheme;
2. a certificate of good standing from the relevant regulatory body in the foreign jurisdiction certifying that the applicant is legally entitled to operate as a private pension scheme;
3. information and documents specified in items 1, 3, 5, 7, 8, 9 and 10 of Part 1;
4. information and documents which evidence, to the satisfaction of the Commission, that the applicant –
 - (a) provides pension benefits to beneficiaries in another country other than Mauritius;
 - (b) is established and regulated in a foreign jurisdiction in compliance with section 10(2)(b) of the Act; and
 - (c) affords and will be able to afford adequate protection to beneficiaries of the foreign pension scheme.