



**GUIDELINES FOR THE ‘CONVERSION’ OR ‘SHIFT’ OF
DEFINED BENEFIT PENSION SCHEMES TO DEFINED
CONTRIBUTION PENSION SCHEMES**

23 April 2021

A. Background

- A.1. These Guidelines set out the proposed approach to be taken by the Financial Services Commission (“the Commission”) in relation to the conversion or shift of Defined Benefit Pension Schemes to Defined Contribution Pension Schemes in Mauritius.
- A.2. These Guidelines are issued by the Commission pursuant to its powers under section 7(1) (a) of the Financial Services Act.
- A.3. These Guidelines neither derogate nor restrict the powers vested upon the Commission by statute, and should be read together with the relevant Acts, as well as, Guidelines and Circulars issued by the Commission.
- A.4. The Commission may direct any licensee to comply with the Guidelines or any part thereof, and failure to do so shall constitute a contravention of the Law and may lead to prosecution.

B. Definitions

“ancillary benefit” means any benefit ancillary to the pension benefit and shall include disability benefits, death benefits, pre-retirement death benefits and early retirement benefits;

“conversion” means the process of converting the members’ benefits in a defined benefit scheme that have accrued up to the date of conversion and crediting the commuted value to the members’ individual accounts under the subsequent defined contribution scheme;

“portability basis” means the basis whereby the current total value of the member’s accrued benefits is determined;

“shift” means the process of shifting the members of a defined benefit scheme to a defined contribution scheme, for future service accrual, on the date on which the accrued pension benefits of members under the defined benefit scheme are preserved;

“standard rate of contribution” means the future level of contributions that would be enough to provide for future benefit accrual in respect of active members under the assumption that the defined benefit scheme had no surplus or shortfall;

“valuation date” means the conversion date or the shift date.

C. Introduction

A conversion or a shift alters the fundamental pension agreement between the employer and the scheme members. A sponsoring employer may change the basic structure of a private pension scheme for future benefits, as may be provided for in the rules of a private pension scheme.

While each case presents its own circumstances, the present Guidelines are set out to assist such conversions or shifts. **A sponsoring employer is encouraged to continue its defined benefit scheme, to its best ability, for providing pension benefits to the employees participating in the scheme.**

D. Application pack

When applying for conversion or shift, the applicant shall ensure compliance with section 8 of the Private Pension Schemes Act.

The application for the approval of a conversion or a shift shall be accompanied by the following documents:

- i. a conversion plan or shift plan, certified by all members of the governing body of the scheme, which shall include the rationale for conversion or shift, as the case may be and the way forward in treating any deferred member and pensioner;
- ii. an actuarial valuation report as at conversion date or shift date;
- iii. a notice of amendment to the constitutive documents of the scheme given to all affected scheme members, as the case may be;
- iv. amended constitutive documents of the scheme, as the case may be, for the Commission's approval together with duly approved resolutions signed respectively by all members of the governing body of the scheme and the board members of the sponsoring employer;
- v. a contingency plan, where applicable, to restore funding ratio to 100%;
- vi. evidence of the communication exercise to members of the scheme;
- vii. certified true copies of signed option forms evidencing consents of members of the scheme to convert or shift; and
- viii. such other documents or information as may be required by the Commission.

PART 1- CONVERSION

1.0 Application of this Part

This Part applies to conversions where the members' benefits, in a defined benefit scheme that have accrued up to the date of conversion, are commuted and the commuted value is credited towards the members' individual accounts under the subsequent defined contribution scheme.

1.1 Fully funded defined benefit schemes

Where a defined benefit scheme is fully funded on a portability basis at the conversion date, a conversion shall be permitted provided the following conditions are satisfied:

- (a) communication exercise to members;
- (b) full disclosure of information to members; and

(c) consent of members is obtained.

Evidence of the fulfillment of the above conditions shall be communicated to the Commission within 28 days of the communication exercise. The contents of the communication exercise shall include at a minimum the information specified in Appendix 1.

1.1.1 Full disclosure of information to members

Prior to the conversion, the scheme shall give a written statement of benefits and options to the members being affected by the conversion within 7 days of the communication exercise once the members' entitlements and commuted values have been determined. The statement of benefits and options shall contain, at a minimum, the information specified in Appendix 2.

1.1.1.1 Minimum Commuted Value

The commuted value of the accrued benefits as at the date of conversion must be determined for each consenting member.

The commuted value of a pension, deferred pension or ancillary benefit shall be calculated on a portability basis using reasonable methods and actuarial assumptions as determined by the actuary of the scheme.

The value of ancillary benefits for which the member has met all eligibility requirements under the pension scheme as at the date of conversion, must be taken into account in determining the commuted value of the member's accrued benefits.

However, sponsoring employers may wish to contribute over and above the minimum commuted value so as to better compensate the members for the loss in their guaranteed benefits under the defined benefit scheme.

1.1.2 Consent of members

Where a member is affected by the conversion, the governing body and sponsoring employer shall give the member the opportunity to give his or her consent within such reasonable time as the governing body and sponsoring employer may determine.

Proof of all consents obtained shall be submitted to the Commission.

(a) Elect to convert

Where a member has elected to convert his or her accrued pension benefits to a defined contribution form, the governing body and sponsoring employer shall inform the member of the amount of pension benefits he or she is foregoing under the defined benefit scheme.

In the event that all members of the defined benefit scheme have elected to convert their accrued pension benefits to a defined contribution form, the defined benefit scheme shall eventually no longer exist.

(b) Elect not to convert

Where a member has elected not to convert his or her accrued pension benefits to a defined contribution form, the governing body and sponsoring employer may consider the following options:

- (a) buy-out of immediate or deferred annuities, as the case may be, for the non-consenting member;
- (b) provide for the non-consenting member to remain in a frozen defined benefit scheme as a deferred member, subject to the conditions as set out under Part 2 of these Guidelines; or
- (c) any other agreement signed between the non-consenting member and the sponsoring employer, including an agreement to transfer the commuted value to an individual pension scheme or plan, provided that full disclosure has been made to the non-consenting member.

(c) No election made

If no election is made by a member, the member is deemed not to have elected to convert his or her accrued pension benefits to a defined contribution form. The governing body and sponsoring employer may then consider the options under paragraph 1.1.2 (b) of these Guidelines.

1.1.3 Amendment to the constitutive documents of the scheme

Conversions may be effected, as the case may be, by means of an amendment to the constitutive documents of the scheme for which the approval of the Commission shall be obtained in accordance with section 29 of the Private Pension Schemes Act. In processing the application for approval, the Commission shall have regard to:

- (a) the funding level of the scheme;
- (b) compliance with the relevant Acts, Regulations and Rules made thereunder;
- (c) compliance with these Guidelines; and
- (d) the outcome of the communication exercise conducted by the governing body and sponsoring employer to the members of the scheme.

1.2 Under-funded defined benefit schemes

The requirements in Part 1.1 shall apply *mutatis mutandis* to under-funded defined benefit schemes. If the assets of the scheme are not sufficient to cover the commuted value of the benefits that are to be converted, the sponsoring employer shall contribute the shortfall to the scheme in a lump sum.

The sponsoring employer shall make a lump sum payment to the defined benefit scheme to ensure that the scheme is fully funded.

1.3 Defined benefit schemes with surplus

Any surplus arising in the defined benefit scheme shall be distributed to the members' individual accounts under the subsequent defined contribution scheme.

PART 2- SHIFT

2.0 Application of this Part of the Guidelines

This Part applies to cases where the member of a defined benefit scheme shift to a defined contribution scheme, for future service accrual, on the date on which accrual to the defined benefit scheme stops (“the shift date”).

2.1 Fully funded defined benefit schemes

Where a defined benefit scheme is fully funded at the shift date, based on one of the options under paragraph 2.1.3 (a), as the case may be, the shift shall be permitted, provided the following conditions are satisfied:

- (a) communication exercise to members;
- (b) full disclosure of information to members;
- (c) consents of members have been sought and the consents obtained are submitted to the Commission; and
- (d) where the consents of all members have not been obtained, legal advice is sought in respect of the non-consenting members and submitted to the Commission.

Evidence of the fulfillment of the above conditions shall be communicated to the Commission within 28 days of the communication exercise. The contents of the communication exercise shall include at a minimum the information specified in Appendix 1.

2.1.1 Full disclosure of information to members

Prior to the shift, the scheme shall give a written statement of benefits and options to the members being affected by the shift within 7 days of the communication exercise. The statement of benefits and options shall contain, at a minimum, the information specified in Appendix 2.

2.1.2 Consent of members

Where a member is affected by the shift, the governing body and sponsoring employer shall give the member the opportunity to give his or her consent within such reasonable time as the governing body and sponsoring employer may determine.

Where the consents of all the members have been obtained, submission of a legal advice pursuant to paragraph 2.1(d) shall not be required.

Proof of all consents obtained shall be submitted to the Commission.

2.1.3 Options to Members

(a) Elect to shift

Where a member has elected to shift, the past service benefits of the member shall be preserved. The past service benefits shall be linked, at the option of the sponsoring employer, taking into account the best interest of members, to the following:

- (a) future final salary;
- (b) salary at shift date with increase in additional remuneration orders or the consumer price index, whichever is higher; or
- (c) salary at shift date, where consents of all the members have been obtained in this respect, or where the sponsoring employer is facing financial difficulties which is supported by an independent assessment report from an audit firm.

(b) Elect not to shift

- i. In the event that not all members have elected to shift and where consent of the non-consenting members is not required based on the legal advice, the governing body and the sponsoring employer shall shift the non-consenting members to a defined contribution scheme.

- ii. In the event that a member has elected not to shift and where consent of the non-consenting member is required based on the legal advice, the member shall remain in the defined benefit scheme without any change, whatsoever, to his or her accrued and future benefits.

(c) No election made

- i. In the event that no election is made by a member and where consent of that member is not required based on the legal advice, the governing body shall shift the member to a defined contribution scheme.
- ii. In the event that no election is made by a member and where consent of that member is required based on the legal advice, the member is deemed not to have elected to shift to the defined contribution scheme, and shall remain in the defined benefit scheme without any change, whatsoever, to his or her accrued and future benefits.

2.1.4 Amendment to the constitutive documents of the scheme

Shifts may be effected, as the case may be, by means of an amendment to the constitutive documents of the scheme, whereby there shall exist thereafter, two sets of scheme rules - one for the defined benefit section and one for the defined contribution section, for which the approval of the Commission shall be obtained in accordance with section 29 of the Private Pension Schemes Act. In processing the application for approval, the Commission shall have regard to:

- (a) the funding level of the scheme;
- (b) compliance with the relevant Acts, Regulations and Rules made thereunder;
- (c) compliance with these Guidelines; and
- (d) the outcome of the communication exercise conducted by the governing body and sponsoring employer with the members of the scheme.

If the constitutive documents of the scheme are amended to freeze the salary level at which the accrued benefits are determined as at the date of shift, notice of this amendment to freeze the salary level must be included as part of the notice of amendment given to all affected members.

2.2 Under-funded defined benefit schemes

The requirements provided in Part 2.1 shall apply *mutatis mutandis* to under-funded defined benefit schemes. In addition, prior to giving its approval for the shift, the Commission shall also require that the under-funded defined benefit schemes be fully funded based on one of the options under paragraph 2.1.3(a), as the case may be, or that a contingency plan be submitted to the Commission for approval.

2.2.1 Funding

Where the funding ratio of a defined benefit scheme is below 100%, the sponsoring employer shall contribute the shortfall to the scheme in a lump sum.

The sponsoring employer shall make a lump sum payment to the defined benefit scheme to ensure that the asset to liability ratio is not less than 1.0.

2.2.2 Contingency plan

Where the sponsoring employer is unable to fund the deficit forthwith, the governing body and sponsoring employer shall submit a contingency plan duly vetted by the actuary of the scheme, to the Commission for approval. Prior to granting its approval, the Commission shall have regard to the amount of deficit of the defined benefit scheme and the proposed time period for funding which shall in any case not exceed 15 years.

Appendix 1

Contents of the communication exercise	
Conversion	Shift
a) Rationale for the conversion	a) Rationale for the shift
b) Effective date of conversion	b) Effective date of shift including related information on service and salary
c) The way in which benefits are determined under the current defined benefit scheme and how same will be determined under the defined contribution scheme	c) The way in which benefits are determined under the current defined benefit scheme and how same will be determined under the frozen defined benefit scheme and the defined contribution scheme
d) The normal retirement age under the current defined benefit scheme and under the proposed defined contribution scheme	d) The normal retirement age under the current defined benefit scheme and under proposed defined contribution scheme
e) Comparative table providing for all existing benefits under the current defined benefit scheme and the proposed benefits under the defined contribution scheme which may include death and disability benefits	e) Comparative table providing for all existing benefits under the current defined benefit scheme (not frozen) and the proposed benefits (retained benefits and/or new benefits) under the new defined contribution scheme which may include death and disability benefits
f) Comparative table providing for projected benefits under the current defined benefit scheme and the projected benefits under the defined contribution scheme	f) Comparative table providing for projected benefits under current defined benefit scheme (not frozen) and the projected benefits under frozen defined benefit scheme and defined contribution scheme
g) All risks borne by members when converting to the defined contribution scheme	g) All risks borne by members when shifting to the defined contribution scheme
h) Different options available to members	h) Different options available to members

Appendix 2

STATEMENT OF BENEFITS AND OPTIONS FOR MEMBERS

Part I – CONVERSION

The following information must be included in the Statement of Benefits and Options given to each member upon determination of the member's entitlements and commuted values from the defined benefit scheme:

1. If the member elects to convert the accrued pension benefits of a defined benefit scheme, the amount of accrued pension benefits and the commuted value that shall be credited to the member's defined contribution account shall include the amount and value of –
 - a. ancillary benefits for which the member has satisfied all eligibility requirements;
and
 - b. any benefit improvement granted in conjunction with the conversion.
2. The amount, in Mauritian Rupees, of projected pension benefits at appropriate retirement age under the defined benefit scheme prior to the conversion.
3. The amount, in Mauritian Rupees, of projected pension benefits under the defined contribution section, at appropriate retirement age post conversion.
4. A statement that the member will no longer be entitled to the benefits under the defined benefit scheme, and that the member's future pension benefits will depend on the earnings of the defined contribution scheme and where applicable, the annuity rates in effect at the time when the member is retiring and chooses to annuitize the benefit, except with respect to benefits not converted.

5. Identification of any ancillary benefit for which the member has not met the eligibility requirements, and that these ancillary benefits, as the case maybe, will no longer be offered in the defined contribution scheme.
6. A statement that the defined contribution members' account is subject to the constitutive documents of the defined contribution scheme.
7. The rate of contribution of the sponsoring employer to the defined contribution scheme, which shall be –
 - a. not less than the standard rate of contribution payable under the defined benefit scheme prior to the conversion; or
 - b. any such rate of contribution acceptable to the Commission.

Part II - SHIFT

The following information must be included in the Statement of Benefits and Options given to each member upon determination of the member's entitlements from the defined benefit scheme:

1. A statement that the member may elect to shift or not to shift to the defined contribution scheme.
2. The amount, in Mauritian Rupees, of projected pension benefits at appropriate retirement age under the defined benefit scheme prior to the shift.
3. The amount, in Mauritian Rupees, of projected pension benefits under the defined benefit section and the defined contribution section, at appropriate retirement age post the shift.
4. If the member elects to shift to a defined contribution scheme, the amount, in Mauritian Rupees, of his or her past service benefits, should be calculated as at shift date.
5. A statement that the member will no longer accrue pension benefits under the defined benefit scheme as at shift date and that the member's future pension benefits will depend on the earnings of the defined contribution scheme and where applicable, the annuity rates in effect at the time when the member is retiring and chooses to annuitize the benefit.
6. Identification of any ancillary benefit for which the member has not met the eligibility requirements, and that these ancillary benefits, as the case may be, will no longer be offered in the defined contribution scheme.

7. A statement that the defined contribution members' account is subject to the constitutive documents of the defined contribution scheme.

8. The rate of contribution of the sponsoring employer to the defined contribution scheme, which shall be –
 - a. not less than the standard rate of contribution payable under the defined benefit scheme prior to the shift; or
 - b. any such rate of contribution acceptable to the Commission.