VERŻJONI ELETTRONIKA

L.N. 6 of 2015

RETIREMENT PENSIONS ACT (CAP. 514)

Retirement Pensions (Exemption) Regulations, 2015

IN exercise of the powers conferred by paragraph (f) of sub-article (1) of article 37 of the Retirement Pensions Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Retirement Pensions Act (Exemption) Regulations, 2015.

(2) These regulations shall come into force on the 1st January 2015.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

"the Act" means the Retirement Pensions Act; Cap. 514.

"competent authority" refers to the Malta Financial Services Authority established under the Malta Financial Services Authority Act; Cap. 330.

"Maltese IORP" means an occupational retirement scheme as defined in article 2 of the Act, licensed by the competent authority in terms of the Act, and which qualifies as an IORP for the purposes of the Occupational Pensions Directive.

(2) Words and expressions which are also used in the Act shall, in these regulations, have the same meaning as in the Act.

Exemption from licence - Investment Manager.

3. Any person who is appointed by a Maltese IORP, a personal retirement scheme or a retirement fund as an investment manager in terms of the Act, and is:

(a) established and duly authorised in a Member State or EEA State to carry out portfolio investment management in accordance with Directives 2009/65/EC, 2004/39/EC, 2006/48/EC, 2002/83/EC or 2011/61/EU, as amended from time to time, and carries on such services in Malta by way of freedom of establishment or freedom of services under the respective Directives; or

(b) an entity which is subject to an equivalent level of regulatory supervision in the jurisdiction where its operations take place, having the business organisation, systems, experience and expertise deemed necessary by the competent

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authority for it to undertake investment management activities and which satisfies any additional criteria which may be set out in Pension Rules issued by the competent authority from time to time,

shall be exempt from the provisions of article 6 of the Act.

Exemption from licence - Custodian.

4. Any person who is appointed by a Maltese IORP, a personal retirement scheme or a retirement fund as a custodian in terms of the Act, and is:

(a) established and duly authorised in a Member State or EEA State to carry out custodian services in accordance with Directive 2004/39/EC or 2006/48/EC, or accepted as depositary for the purposes of Directive 2009/65/EC, as amended from time to time, and carries on such services in Malta by way of freedom of establishment or freedom of services under the respective Directives; or

(b) an entity which is subject to an equivalent level of regulatory supervision in the jurisdiction where its operations take place, having the business organisation, systems, experience and expertise deemed necessary by the competent authority for it to undertake custody services and which satisfies any additional criteria which may be set out in Pension Rules issued by the competent authority from time to time,

shall be exempt from the provisions of article 6 of the Act.

Exemption from recognition.

5. Any person established outside Malta who is appointed by a Maltese IORP, a personal retirement scheme or a retirement fund licensed under the Act to provide one or more back office administrative services as established by Pensions Rules, shall be exempt from the requirement of recognition in terms of article 7 of the Act provided that the competent authority is satisfied that:

(a) such person is of sufficient standing and repute; and

(b) has the business organisation, systems, experience and expertise deemed necessary by the competent authority for it to undertake back office administrative services and which satisfies any additional criteria which may be set out in Pension Rules issued by the competent authority from time to time.

Exemptions to be determined by competent authority.

6. The exemptions laid down in paragraph (b) of regulation 3, paragraph (b) of regulation 4 and regulation 5, shall not be automatically operative but its applicability shall be subject to a determination in writing by the competent authority that the requested exemption applies.

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7. (1) The following retirement schemes are not considered as schemes for the purposes of the Act and accordingly none of the provisions of the Act shall apply thereto: Exemption from registration: Retirement Scheme.

(a) retirement schemes established or regulated under the following legislation:

(i) the Pensions Ordinance; Cap. 93.

(ii) the Police Act; Cap. 164.

(iii) the Port Workers Ordinance; Cap. 171.

(iv) the Malta Armed Forces Act; Cap. 220.

(v) the Prisons Act; and Cap. 260.

(vi) the Members of Parliament Pensions Act. Cap. 280.

(b) pension and pension related arrangements resulting from agreements that have been entered into between the employer and employees or representatives of employees prior to the appointed date;

(c) retirement schemes which had been in operation prior to the appointed date and which are closed to new members;

(d) social security schemes, pensions and pension related arrangements in terms of the Social Security Act. Cap. 318.

(2) For the purpose of this regulation, the "appointed date" means the 1st October 2002.

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