FINANCIAL SERVICES ACT

(CAP. 44: 05)

FINANCIAL SERVICES (DISCLOSURE REQUIREMENTS FOR PENSION PRODUCTS AND SERVICES) DIRECTIVE, 2018.

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IN EXERCISE of powers conferred by section 34 (2) of the Financial Services Act, I, DR. DALITSO KABAMBE, Registrar of Financial Institutions, issue this Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Financial Services (Disclosure Requirements for Pension Products and Services) Directive, 2018.

Application

2. This Directive applies to all pension providers.

Interpretation

3. (1) In this Directive, unless the context otherwise requires—

"Board" means the highest body of authority in a pension provider responsible for strategically guiding the institution, effectively monitoring management and properly accounting to shareholders;

"financial consumer" in relation to a financial service, means—

(*a*) (i) a natural person, not acting in the course of business; or

(ii) a sole trader, partnership, trust club or charity (not being a body corporate), with an annual turnover in its previous financial year of MK250,000,000 or less; or

(iii) an incorporated body that—

(I) had an annual turnover in its previous financial year of MK250,000,000 or less;, and

(II) is not a body corporate that is a member of a group of companies with a combined annual turnover (in the previous financial year of the group of companies), of greater than MK250, 000,000, that—

(A) is a customer of a financial institution;,

(B) is a person or body to whom a financial institution has offered to provide a financial product or service;, or

(C) has sought the provision of a financial product or service;.

(*b*) an actual or potential beneficiary of a financial product or service;.

"'key fact statement"' means a short form, standardized disclosure document prepared by a pension provider in relation to a financial product or service which—

(*a*) summarizes the key terms, annual percentage rate and other fees and charges;

(*b*) can be used to compare the product offers of different pension providers; and

(*c*) is in a format and contains the content, which is specified in this directive on disclosure;.

"'pension provider"' means any of the following—

(*a*) a pension services company;

(*b*) an administrator of pension funds;

(*c*) a provider of programmed withdrawal;

(*d*) a trustee of a pension fund; and

(*e*) a pension broker; and

"pension service" means any of the services relating to the business of the pension provider which are offered by the pension provider to a financial consumer.

(2) Any term used in this Directive, and which has been defined in the Act and the Pension Act has the meaning ascribed to that term under the Act and the Pension Act. Cap. 55:02

PART II—OBJECTIVES

Objectives

4. The objectives of this Directive are to—

(*a*) define minimum disclosure requirements for a pension product or service;

(*b*) ensure that financial consumers are provided with full, accurate and timely information to evaluate whether and to what extent a pension service is appropriate;

(*c*) promote comparability of a pension product or service by a financial consumer; and

(*d*) promote fair treatment of financial consumers.

PART III—BOARD AND MANAGEMENT OVERSIGHT

Board and management oversight

5.—(1) The Board and management of a pension provider are responsible for adherence and compliance with the requirements of this Directive.

(2) A pension provider shall have a written disclosure policy on a pension product and service approved by the Board.

(3) The Board shall ensure that—

(*a*) management is implementing the disclosure policy; and

(*b*) there is full, timely and accurate disclosure of all relevant information on a pension product and service in line with the requirements of this Directive.

PART IV—MINIMUM DISCLOSURE REQUIREMENTS

General requirements

6.—(1) A pension provider shall disclose to a financial consumer all necessary information related to a pension product and service to enable the financial consumer make an informed decision.

(2) A pension provider shall disclose to a financial consumer before entering into a contract with a financial consumer the benefits, risks, terms, conditions and costs of a pension product and service.

(3) A pension provider shall disclose information that is clear, accurate and not misleading to a financial consumer.

No cost for information

7. A pension provider shall provide information prescribed in this Directive at no cost, before a financial consumer buys a pension product and service.

Information about pension provider

8. A pension provider shall disclose in a contract—

(*a*) its official trade name and address of its principal office to the financial consumer prior to granting a pension product and service; and

(*b*) its regulated status and, where required by the financial consumer, contact details of the Registrar.

Information about the product and service

9. The disclosed information about a pension provider's products and services shall be contained in a key fact statement which shall include—

(*a*) clear, accurate and complete contractual terms and conditions;

(*b*) type of pension product or service;

(*c*) pension contribution to be paid;

(*d*) administration fees to be paid;

(*e*) investment fees to be paid;

(*f*) the case of defined benefit schemes, the benefits formula;

(*g*) implications of non-payment of pension contributions;

(*h*) conditions for reinstatement of policy following non-payment of pension contributions ;

(*i*) conditions for access to benefits;

(*j*) the method of calculating benefits in the event of retirement or death of the pension fund member;

(*k*) whether a financial consumer shall receive lesser pension benefits, annuities or other benefits by virtue of his or her gender or other status and method of calculating the benefits;

(*l*) the claims procedure including all documentation required;

(*m*) waiting period before payment is made after submission of required documentation;

(*n*) benefit payment options available to a financial consumer;

(*o*) any penalty interest in case of late contribution of payments;

(*p*) penalties in case of non-compliance with other contract terms;

(*q*) taxation of pension contribution, investment returns, and pension benefits;

(*r*) complaints handling mechanisms; and

(*s*) any other information which the Registrar may determine from time to time.

PART V—FORM OF DISCLOSURE

Disclosure form

10 The disclosures in paragraph 9 shall be in the prescribed format in the schedule hereto and communicated to financial consumers before, during and after signing a contract—

(*a*) in English or vernacular language which is easy to read and understand;

(*b*) in written form, and accessible to the financial consumer; and

(*c*) the information must be—

(i) in legible font size of not less than 12;

(ii) available to financial consumers via numerous channels, such as in branches, pension fund offices and online platforms;

(iii) provided on paper or electronic format in graphs to elaborate practical communication taking into account that participants have differing levels of knowledge and information:

Provided that where an insurer or an insurance intermediary opts to use electronic form of communication, the needs and capabilities of the financial consumer must be properly assessed where appropriate; and

(iv) simplified through consumer testing, especially with the needs of vulnerable client groups in mind.

PART VIII—ENFORCEMENT

Monetory penalties

11.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive—

(*a*) for pension providers, a fine not exceeding K50,000,000;

(*b*) for individuals who are members of the Board or management, a fine not exceeding K10,000,000; and

(*c*) in addition, a penalty of K50,000 may be imposed on the pension provider for each subsequent day for which the violation continues after being notified by the Registrar of the violation.

(2) The penalties imposed in subparagraph (1) shall be paid through a bank certified cheque or electronic transfer payable to the Reserve Bank of Malawi within 10 working days after being notified by the Registrar of the violation.

Administrative penalties

12. In addition to the monetary penalties imposed in paragraph 11(1) , the Registrar may impose directions, and administrative penalties as provided for under the Act and other financial services laws.

SCHEDULE (para. 10)

KEY FACTS STATEMENT FOR

PENSION PRODUCTS AND SERVICES

(Application No.: .....)

I.—PARTIES CONCERNED

(1) Company name:.....

(2) Contact information (*address, telephone., e-mail*):.....

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(3) The information provided remains valid until:.....

(4) ([*Full legal name of the regulated entity*]) is authorized and supervised by the Registrar of Financial Institutions (see more information below).....

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(5) Applicant's name:.....

(6) Contact information (address, telephone., e-mail):.....

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II. KEY TERMS—Review carefully before buying the product and service

A.—PRODUCT DETAILS

1. Type of pension product or service:.....
2. Pension contribution to be paid.....
2. Implications of non-payment/late submission of contribution.....

.....

3. Penalty interest due to late payment of contributions.....

B.—COST OF PRODUCT OR SERVICE

4. Administration fees to be paid (*monthly/quarterly/lump sum*)

.....

5. Investment fees to be paid .....
6. Taxation of pension contribution.....

C.—PRODUCT SCHEDULE (*If applicable*)

6. Duration: .....
7. Maturity date:.....

8. Cooling-off period:.....

9. Penalties, for termination of contract prior to maturity:.....

.....

10. Exclusions:.....

11. Conditions for reinstatement of defaulted pension contributions:.....

.....

12. Conditions for access to benefits:.....

.....

13. Benefits payment options:.....

III.—STATUTORY RIGHTS

1. Payment of Pension benefits: Payment is expected to be made ..... days after submission of required documentation;

2. Customer Recourse: Complaints or comments? Please call (.....), email (.....) or write to (.....).

3. Redress Mechanism: In case of a dispute you may lodge a complaint with the Registrar or file a lawsuit. To contact the Registrar, call: 01 820299 or Toll Free: 80008444, email: complaints-handling@rbm.mw , mail: The Consumer Protection Unit, Reserve Bank of Malawi, P O Box 565, Blantyre], or visit: http://www.rbm.mw.

4. Right to Annual Statement: You have the right to obtain annual statement of the pension contributions free of any charge.

5. Termination of a contract: You may terminate the contract in the following manner

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IV.—BENEFITS CLAIMS' PROCESSING

D.—BY MEMBER

Amount claimable MKW.....

Payment options available MKW.....

E.—THIRD PARTY

Total amount of benefits MKW.....

Waiting period before payment is made .....

F.—DOCUMENTATION

Documents Required.....

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CERTIFIED CORRECT:

....

Signature of pension provider representative *Date*

I ACKNOWLEDGE THAT I RECEIVE AND UNDERSTAND THIS STATEMENT PRIOR TO PURCHASE OF THE POLICY/ANNUITY:

....

Signature of Beneficiary *Date*

....

Signature of agent/intermediary (*if applicable*) *Date*

Dated this 29th day of June 2018

(FILE NO. FIN/PFSPD/03/04)

D. KABAMBE, PhD
Registrar of Financial Institutions