



Guidance Note - Preparation of the Constitutive Documents of a Superannuation Fund or a Retirement Scheme

This guide is produced by the Financial Services Commission ("FSC") to assist in the preparation of the Constitutive Documents, that is, the Trust Deed or Master Trust Deed and Plan Rules for Superannuation Funds and Retirement Schemes which will be registered pursuant to the Pensions (Superannuation Funds and Retirement Schemes) Act, 2004 (the Act").

The use of the term "superannuation fund" ("fund") or "retirement scheme" ("scheme") should be in accordance with the definition outlined in the Act 2004.

Accordingly, we recommend that the term "fund" be used if the following obtains:

- 1) It is a fund (not being a specified pension fund) whereby contributions toward pensions are made by employers on behalf of employees.

Further, the term "scheme" should be applied as follows:

- 1) It is a scheme (not being a specified pension scheme) to which persons who are self employed or who are not active members of an approved superannuation fund –
 - a) make contributions towards a pension;
 - b) transfer their pension benefits from another retirement scheme on being employed in another job;
 - c) on termination of their employment, transfer their pension benefits from a superannuation fund; and
- 2) which is a defined contribution plan or such other plan as may from time to time be prescribed and open to persons who are residents of Jamaica.

In keeping with the definitions given under the Act, we recommend that the terminology "fund" should not be used interchangeably with the word "scheme" as the terms are to be used only where applicable.