

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.7 Guidelines on Fees and Charges for Transfer of Accrued Benefits

INTRODUCTION

Section 34 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) specifies that “No fees may be charged, and no financial penalties may be imposed, for transferring accrued benefits -

- (a) from a registered scheme to another registered scheme;
- (b) from an account within a registered scheme to another account within the same registered scheme; or
- (c) in the same account within a registered scheme, from a constituent fund to another constituent fund,

other than an amount representing the necessary transaction costs that are incurred, or reasonably likely to be incurred, by the approved trustee in selling or purchasing investments in order to give effect to the transfer and are payable to a party other than that approved trustee.”.

2. Section 6H of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides that the Mandatory Provident Fund Schemes Authority (“the Authority”) may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons and other persons concerned with the Ordinance.

3. The Authority hereby issues guidelines to:

- (a) clarify the intended scope and application of section 34 of the Regulation;

- (b) clarify the responsibility of the approved trustee in relation to requirements under section 34 of the Regulation; and
- (c) clarify what constitutes necessary transaction costs under section 34 of the Regulation.

EFFECTIVE DATE

4. The Guidelines shall become effective on the date of commencement of operation of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2009 (“the Amendment Ordinance 2009”), i.e. 1 November 2012.

APPLICATION OF SECTION 34 OF THE REGULATION

5. The only fees which can be charged under section 34 of the Regulation as amended by the Amendment Ordinance 2009 are, when transfers are made, those fees that relate to the cost impact on the fund, and through the fund, other members. Fees and charges cannot be charged for a transfer where the fee or charge relates to the cost of the trustee or its delegates in effecting the transfer. Fees that relate to the impact on a fund are permitted because, in some circumstances, it may be unfair for existing members to bear the cost impact of others entering or leaving the fund. Accordingly, any amount of transfer fees and charges imposed and received under section 34 of the Regulation must be used to reimburse the relevant constituent fund. Whilst the wording in the section refers to costs “incurred, or reasonably likely to be incurred, by the approved trustee...” the reference to the approved trustee in context means those costs incurred by the trustee effectively on behalf of the fund.

RESPONSIBILITY OF THE APPROVED TRUSTEE

6. Fees that relate to the impact on a fund are permitted because, in some circumstances, it may be unfair for existing members to bear the cost impact of others entering or leaving the fund. The section does not require that such a fee should be charged but does permit it to be charged in appropriate circumstances. The approved trustee is responsible for considering whether it is appropriate to impose a transfer charge under section 34 of the Regulation in relation to any scheme or constituent fund and if so, what mechanism is to be employed. In considering whether to impose the transfer charge in relation to a particular constituent fund, the types of factors that the approved trustee should have regard to would include the actual cost impact on the fund caused by redemptions/applications of units, the liquidity management of the fund and the complexity and costs involved in calculating and imposing such a fee. The approved trustee should review actively and periodically whether to impose the transfer charge for each scheme/constituent fund, in light of what is in scheme members' best interest.

7. The approved trustee should also consider which mechanism for imposing such a fee, if any, is appropriate for the particular scheme/constituent fund, also in light of what is in scheme members' best interest.

NECESSARY TRANSACTION COSTS

8. The necessary transaction costs that are incurred, or reasonably likely to be incurred, by the approved trustee in selling or purchasing investments in order to give effect to the transfer would include, but are not limited to, items such as brokerage commissions, fiscal charges and levies, government charges, bank charges, exchange fees, costs and commissions, registration fees and charges, collection fees and expenses, etc.

9. The term “reasonably likely to be incurred” is included to reflect the market practice that a spread or fee imposed for this purpose is often calculated by reference to a genuine pre-estimate of the costs that will be incurred. In the usual case, the actual costs incurred will not be ascertained in time for them to be attributed to, and charged to, specific transfers.

10. The administration costs (such as staff costs) of the approved trustee or others cannot form part of any transfer charges.

DEFINITIONS OF TERMS

11. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.