

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

II.9 Guidelines on Notification of Events of Significant Nature

INTRODUCTION

Section 62(1) of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides that if the approved trustee of a registered scheme becomes aware of the occurrence of an event of significant nature, the trustee must-

- (a) not later than the third working day after becoming aware of the event, give written notice to the Mandatory Provident Fund Schemes Authority (“the Authority”) setting out particulars of the event (except an event specified in the guidelines as an event to which this paragraph shall not apply);
- (b) keep a record of particulars of the event;
- (c) permit the Authority to inspect the record at any reasonable time during ordinary business hours; and
- (d) give written notice to the Authority-
 - (i) setting out such further or better particulars of the event as the Authority requires; and
 - (ii) as soon as is practicable after the Authority makes that requirement.

2. Section 62(2) of the Regulation defines an event of significant nature as, but not limited to, the following:

- (a) any event that causes the approved trustee to contravene the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”),

the governing rules of the scheme or a condition to which the approval of the approved trustee as such is subject; and

- (b) any material change to the approved trustee's capacity or ability to act as an approved trustee.

3. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

4. The Authority hereby issues guidelines to specify significant events which are considered having limited impact on scheme members' interests.

5. By virtue of C1.2 and D1.2 of the Code on MPF Investment Funds, the notification and record keeping of events of significant nature under section 62 of the Regulation and the elaboration of significant events with limited impact set out in paragraph 6 below are also applicable to approved pooled investment funds.

SIGNIFICANT EVENTS WITH LIMITED IMPACT ON SCHEME MEMBERS' INTERESTS

6. The following is a list of significant events considered to have limited impact on scheme members' interests:

- (a) Passive breaches of investment restrictions which are beyond the control of the approved trustees or the investment managers (e.g. breaches of investment diversification requirements resulting from external factors such as market movements (including movements in exchange rates) and fund inflow / outflow due to subscriptions / redemptions of fund units);

- (b) Ineligibility of a custodian's delegates who are not holding any MPF scheme assets; and
- (c) System failures with limited impact on the approved trustee's ability to perform its duties (i.e. the failures could be fixed within one working day and that the valuation of funds and normal processing of subscription and redemption orders are not affected).

NOTIFICATION TO THE AUTHORITY AND RECORD KEEPING REQUIREMENTS

7. Approved trustees must report significant events with major impact to the Authority not later than the third working day after becoming aware of the event. Approved trustees are required to keep records of details of events of significant nature, whether or not they have limited impact on scheme members, to be made available to the Authority for scrutiny on demand or during on-site inspections on approved trustees.

DEFINITIONS OF TERMS

8. Except where otherwise specified in the Guidelines, the terms common to the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as defined in the Ordinance and the subsidiary legislation. References should be made to the Ordinance and the subsidiary legislation, where necessary.