

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.1 Guidelines on MPF Exempted ORSO Schemes - Application for Exemption of ORSO Exempted Schemes

INTRODUCTION

Section 5(1) of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides for the exemption of the members and their employers of occupational retirement schemes from the operation of all or any specified provisions of the Ordinance.

2. Section 5 of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) sets out the detailed requirements with respect to the application for exemption of ORSO exempted schemes.

3. The Authority hereby issues guidelines relating to the application for exemption of ORSO exempted schemes under the Ordinance and the Exemption Regulation.

APPLICATION FOR APPROVAL

Eligibility

4. According to section 2 of the Exemption Regulation, an ORSO exempted scheme means -

- (a) an exempted scheme within the meaning of section 2 of the Occupational Retirement Schemes Ordinance (Cap. 426) (“the ORS Ordinance”); or

- (b) an occupational retirement scheme within the meaning of the ORS Ordinance where the employer of the scheme is the government of a place outside Hong Kong or an agency or undertaking of or by such a government which is not operated for the purpose of gain.

The Applicant

5. The applicant making an application for exemption of an ORSO exempted scheme must be the relevant employer (as defined under section 2 of the ORS Ordinance) of the Scheme. In case the Scheme is a group scheme under section 67 of the ORS Ordinance, the application can be made by one of the relevant employers of the Scheme and the application shall be deemed to be made by each relevant employer of the Scheme under section 25(a) of the Exemption Regulation.

Prescribed Forms

6. In making an application to the Authority for exemption of an ORSO exempted scheme, the applicant must:

- (a) make the application in the prescribed format as set out in Annex (Form EE);
- (b) pay the application fee prescribed of such amount as may be prescribed by the regulations; and
- (c) make the application before the specified date, i.e. a date specified by the Authority by notice in the Gazette.

7. The prescribed format of the form in the Annex can be downloaded from the Authority's website at:

<http://www.mpfa.org.hk>

Definition of Terms

8. Except where otherwise stated in the form, the terms common to the form in the Annex, the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as defined in the Ordinance and the subsidiary legislation. The applicant should make appropriate reference to the Ordinance and the subsidiary legislation, when necessary.

Signing Requirements

9. The application for exemption of an ORSO exempted scheme must be signed:

- (a) if the applicant is a sole proprietor or a partnership; by the sole proprietor or at least 2 partners of the partnership, as appropriate;
- (b) if the applicant is a company, by at least 2 of the directors of the company.

Submission of Application

10. Completed application form and the relevant documents, if any, should be submitted in hard copies and sent, together with the application fees, to:

Mandatory Provident Fund Schemes Authority
Level 16, International Commerce Centre
1 Austin Road West, Kowloon
Hong Kong

Warning

11. If there is any change to the application information or documents after an application is submitted to the Authority, the applicant should inform the Authority as soon as reasonably practicable. It is an offence under section 43E of the Ordinance if a person, in any document given to the Authority, makes a statement that he knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.