

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.9 Guidelines on MPF Exempted ORSO Schemes – Application for Withdrawal of Exemption Certificate of an ORSO Registered Scheme

INTRODUCTION

Section 19(1) of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) provides that the Mandatory Provident Fund Schemes Authority (“the Authority”) may on an application in writing withdraw an exemption certificate of an ORSO registered scheme where the Authority is satisfied that:-

- (a) the grounds for withdrawal warrant the withdrawal; and
- (b) if the certificate is withdrawn, the relevant employer of the ORSO registered scheme to which the certificate relates will not thereby be in breach of the provisions of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”).

2. Section 19(2) of the Exemption Regulation stipulates that an application for withdrawal of exemption certificate of an ORSO registered scheme shall:-

- (a) be made by the relevant employer; where the scheme is a group scheme under section 67 of the Occupational Retirement Schemes Ordinance, the application shall be made by the representative employer according to section 25(b) of the Exemption Regulation;
- (b) state the grounds for making the application;
- (c) be made in such form as may be specified by the Authority; and

- (d) be accompanied by such information or documents (including statutory declarations) as may be specified by the Authority.

3. The Authority hereby issues guidelines to specify the form for withdrawal of exemption certificate of an ORSO registered scheme under section 19 of the Exemption Regulation and prescribe the information and documents to be submitted together with the form.

APPLICATION FOR WITHDRAWAL OF EXEMPTION CERTIFICATE OF AN ORSO REGISTERED SCHEME

Employees' Option

4. According to section 15 of the Exemption Regulation, it is a statutory requirement that employers shall offer an option to their existing members and new eligible employees, as defined under section 2 of the Exemption Regulation, to choose between the MPF exempted ORSO registered scheme and an MPF scheme within the specified time period.

5. In the event that such option was offered and any such members or employees have given notice of choosing the MPF exempted ORSO registered scheme, *employers are strongly advised to communicate full details of their intentions to these members or employees* before making the application.

Minimum MPF Benefits

6. The Minimum MPF Benefits of the new members shall be transferred, in accordance with the governing rules of the MPF exempted ORSO registered scheme, to an MPF scheme.

Prescribed Form

7. Application shall be made by the relevant/representative employer in the prescribed format as set out in Annex (Form WD-ER). The prescribed format of the form 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 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 the withdrawal of exemption certificate of an ORSO registered 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, at least 2 of the directors of the company.

Submission of Application

10. Completed application form and the relevant application documents should be submitted in hard copies 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 application 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.