

## **General Principles when Giving Notices or Other Documents by the Means described in Section 206(2)(a) or (b) of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation)**

Approved trustees should have regard to the following general principles when giving notices or other documents to participating employers or scheme members (or prospective participating employers or prospective scheme members) (the Recipients) by the means described in section 206(2)(a) or (b) of the Regulation:

- (a) whilst giving of notices or other documents in a particular manner may comply with section 206 of the Regulation, trustee should also have regard to whether the objective of effectively communicating with the Recipients is achieved by the manner used;
- (b) trustees should ensure that the giving of notices or other documents is made in a secure environment, and take all practicable steps to protect the Recipients' information against leakage, unauthorized access, use or disclosure. Trustees should also put in place security policies and measures that keep up with the advancement in internet security technologies;
- (c) trustees should ensure sufficient resources in all operational areas to support electronic communication. In addition, adequate training should be provided to all staff so that they are able to handle enquiries relating to the giving of notices or other documents under section 206(2) of the Regulation;
- (d) trustees should put in place risk monitoring and quality assurance measures that are capable of detecting deficiencies in their process of giving notices or other documents to the Recipients under section 206(2) of the Regulation;

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- (e) trustees should have contingency measures to remedy any failures to give notices or other documents to the Recipients under section 206(2) of the Regulation due to system failure or any other reasons; and
  - (f) if trustees rely on a third party (e.g. a group company of trustees or an outside service provider) to support the giving of notices or other documents under section 206(2) of the Regulation, trustees are still responsible for ensuring that the above-mentioned principles set out in (a) to (e) are complied with.

### **Guidance on Trustees' Operational Measures when Giving Notices or Other Documents by the Means described in Section 206(2)(a) or (b) of the Regulation**

2. Trustees should establish their operational measures for giving notices or other documents for the purposes of the Mandatory Provident Fund Schemes Ordinance (the Ordinance) under section 206(2) of the Regulation to adhere to the above-mentioned general principles. To facilitate trustees in developing their operational measures for giving notices or other documents by the means described in section 206(2)(a) or (b) of the Regulation, the following examples are provided to illustrate a range of controls that may be deployed. These examples are not intended to be exhaustive or treated as compliance checklists.

#### *Express Consent*

- (a) Section 206(2A) of the Regulation provides that the Recipients have to give consent in order for the sender to give notices or other documents to the Recipients by the means described in section 206(2)(a) or (b) of the Regulation. Where the proposed terms of consent are prepared by trustees issuing the notices or documents to the Recipients, trustees have to ensure that the consent should be in terms specified by the

Mandatory Provident Fund Schemes Authority (the Authority) and in plain language. Furthermore, if the proposed terms of consent are incorporated in the notices or documents, they should be placed in a prominent manner in such notices or documents.

- (b) The proposed terms of consent for the purpose of section 206(2A) of the Regulation should not be bundled with the proposed terms of consent for other purposes and no condition should be attached to the Recipients not giving the consent.

### Communication

- (c) Trustees should clearly communicate to the Recipients at the time of giving consent and regularly remind them through various channels that the Recipients should inform the trustees as soon as practicable upon change of their designated contact details (e.g. email address). The trustees should update the Recipients' contact details as soon as practicable upon receipt of notification.
- (d) Trustees should regularly remind the Recipients through various channels that the Recipients should regularly check for due receipt of notices or documents by the means described in section 206(2)(a) or (b) of the Regulation. For example, trustees may remind the Recipients to check their designated electronic mail box, including their junk mail box.

### Notices or Documents Not Successfully Given to Recipients

- (e) Trustees should put in place measures to alert them to instances when (a) notices or documents that need to be given for the purposes of the Ordinance, or (b) the notification to the Recipients regarding the

availability of any such notices or documents, cannot be successfully given to the Recipients.

- (f) If trustees become aware that the Recipients' contact details provided are invalid (e.g. email bounced back) and hence the notices or documents to which the consent applies cannot be successfully given, in addition to other requirements under the terms of prior consent specified by the Authority pursuant to section 206(2B) of the Regulation, trustees should take practical steps to obtain the Recipients' updated contact details for the means to which the consent applies within 60 days after becoming so aware.

#### *System Capability and Security*

- (g) Mechanisms should be in place to maintain the integrity of data stored in the system hardware, whilst in transit and as displayed on the website. In addition, appropriate backup procedures for the database and application software should be implemented.
- (h) Where the Recipients need to register on trustees' website to open an online account with trustees to view notices or documents, the registration process should be completed through a secure environment.

#### *Contents of Electronic Notices or Documents*

- (i) The contents of electronic notices or documents shall be identical to those given in hard copy.
- (j) If the notices or documents are made available through trustees' website, the website should clearly specify the areas that contain the electronic notices or documents. The incorporation of a search facility or prompts to assist the Recipients to navigate to or find the electronic notices or documents is encouraged if this would enhance

the comprehensibility, readability and legibility of the notices or documents.

Retention

- (k) The Recipients should be allowed, free of charge, to retain the notices or documents by printing or downloading them or have ongoing access during the period of availability of such notices or documents.

Record Keeping

- (l) Trustees should ensure that all records relating to electronic communications (e.g. giving of consent, revocation, change of contact details, date and time of giving notices or documents or notifying the availability of the notices or documents) are properly kept. Such records should be readily accessible by the Authority for supervisory and inspection purposes.

Oversight of Outsourced Third Party Administration

- (m) Trustees should regularly monitor and evaluate the security, reliability and capacity of the systems operated by the third party.