

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.26 Guidelines on Giving of Notices or Documents by Electronic Means

INTRODUCTION

Section 206 of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation) stipulates how a notice or other document is to be given for the purposes of the Mandatory Provident Fund Schemes Ordinance (the Ordinance).

2. Section 206(2) of the Regulation provides that in addition to delivery or service by post allowed under section 206(1) of the Regulation, a notice or other document is also taken to have been given for the purposes of the Ordinance if:

- (a) it is sent to the recipient by facsimile transmission or electronic mail at the recipient's facsimile number or electronic mail address last known to the sender, or by other means specified by the recipient, and a record generated by the means of transmission establishes that the notice or document was so sent;
- (b) it is made available to the recipient by means of a website or by other electronic means, and the recipient is notified of its availability by the operation of section 206(2)(a) or section 206(1)(a), (b) or (c) of the Regulation; or
- (c) it is made available to the recipient by means of an electronic system designated by the Mandatory Provident Fund Schemes Authority (the Authority) under section 6KA(1) of the Ordinance for use for the purposes of section 206(2)(c) of the Regulation.

3. Section 206(2A) of the Regulation provides that section 206(2)(a) and (b) of the Regulation does not apply unless the recipient has given consent to being given the notice or document by the means described in section 206(2)(a) and (b) of the Regulation.

4. Section 206(2B) of the Regulation provides that for the purposes of section 206(2A) of the Regulation, if the recipient is a participating employer or a member (or a prospective participating employer or a prospective member) of a registered scheme, prior consent must be given in the terms specified by the Authority.

5. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons, regulated persons and other persons concerned with the Ordinance.

6. The Authority hereby issues guidelines to set out:

- (a) the terms of prior consent specified by the Authority pursuant to section 206(2B) of the Regulation and guidance on obtaining such consent; and
- (b) the general principles and guidance on operational measures for an approved trustee when giving notices or other documents by the means described in section 206(2)(a) or (b) of the Regulation.

EFFECTIVE DATE

7. These revised Guidelines (Version 2 – October 2020) shall become effective on 31 October 2020. The previous version of these Guidelines (Version 1 – December 2015) shall be superseded on that day.

SPECIFICATION OF TERMS OF PRIOR CONSENT

8. The terms of prior consent specified by the Authority pursuant to section 206(2B) of the Regulation and guidance on obtaining such consent are set out in Annex A.

GENERAL PRINCIPLES AND GUIDANCE ON OPERATIONAL MEASURES

9. The general principles and guidance on operational measures for giving notices or other documents by the means described in section 206(2)(a) or (b) of the Regulation are set out in Annex B. They only apply to a sender who is an approved trustee.

DEFINITION OF TERMS

10. 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.