

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.10 Guidelines on MPF Exempted ORSO Schemes – Filing of Annual Report

INTRODUCTION

With regard to MPF exempted ORSO registered schemes, two annual returns are required to be filed under section 30 of the Occupational Retirement Schemes Ordinance (the ORS Ordinance) and section 10 of Schedule 2 to the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) respectively.

2. Section 30 of the ORS Ordinance stipulates that, within six months after the end of each financial year of an ORSO registered scheme or such longer period as approved by the Registrar of Occupational Retirement Schemes, that is the Mandatory Provident Fund Schemes Authority (the Authority), an annual return should be submitted to the Authority for that financial year as regards the scheme in such form and containing such information as may be specified by the Authority.

3. Section 10 of Schedule 2 to the Exemption Regulation also stipulates that, within six months after the end of each financial year of an MPF exempted ORSO registered scheme or such longer period as approved by the Authority, an annual return for the scheme should be submitted to the Authority for that financial year:

- (a) in such form and containing such information as may be specified by the Authority; and
- (b) accompanied by the prescribed fee.

4. According to the Mandatory Provident Fund Schemes (Fees) Regulation, the current fee payable when an annual return is lodged with the Authority under section 10 of Schedule 2 to the Exemption Regulation is nil.

5. Section 6KA(1) and (2) of the Mandatory Provident Fund Schemes Ordinance (the Ordinance) provides that the Authority may designate an electronic system that is established and operated by it or a wholly owned subsidiary for use for the purposes of the Ordinance (other than Part 3B).

6. Section 6KA(7) of the Ordinance provides, among other things, that the Authority must, as soon as practicable after making a designation under section 6KA(1) of the Ordinance, publish information about the designation in any manner that the Authority considers appropriate.

7. 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.

8. The Authority hereby issues guidelines:
 - (a) to set out the single form specified by the Authority for filing of annual returns in respect of an MPF exempted ORSO registered scheme to fulfil the requirements under both section 30 of the ORS Ordinance and section 10 of Schedule 2 to the Exemption Regulation, and prescribe the information and documents to be submitted together with the form;
 - (b) to set out matters regarding the designation of an electronic system under section 6KA(1) and (2) of the Ordinance for use for the purposes of section 10 of Schedule 2 to the Exemption Regulation;

and

- (c) to provide guidance on the signature requirements and submission of the annual returns.

EFFECTIVE DATE

9. These revised Guidelines (Version 6 – April 2023) shall become effective on 24 April 2023. The previous version of these Guidelines (Version 5 – October 2021) shall be superseded on that day.

FILING OF ANNUAL REPORT OF AN MPF EXEMPTED ORSO REGISTERED SCHEME

10. In order to facilitate the filing of annual returns for an MPF exempted ORSO registered scheme, the trustee of the scheme shall complete:

- (a) the physical form (i.e. Form MPF(ORSO) – AR) as set out in Annex A; or
- (b) the electronic form (i.e. eForm MPF(ORSO) – AR) (English version only) as set out in Annex B,

and submit the completed form to the Authority so as to satisfy the requirements under both section 30 of the ORS Ordinance and section 10 of Schedule 2 to the Exemption Regulation. For participating schemes of a pooling agreement which are MPF exempted ORSO registered schemes, the trustees administering the pooling agreement may submit annual returns containing the information prescribed in Annex B for the participating schemes by batch (batch form) electronically to the Authority. Trustees shall submit such physical form, electronic form or batch form for their schemes within six months after the financial year end of the schemes.

Prescribed Form

11. The prescribed format of the physical form (i.e. Form MPF(ORSO) – AR in Annex A) can be downloaded from the Authority’s website at: www.mpfa.org.hk.

DESIGNATION OF THE eORSO PORTAL

12. The Authority has designated the eORSO Portal as an electronic system under section 6KA(1) and (2) of the Ordinance for use for the purposes of section 10 of Schedule 2 to the Exemption Regulation with effect from 8 October 2021. The Authority also publishes information about the designation of the eORSO Portal in these guidelines.

13. In these guidelines, the eORSO Portal means an electronic platform for trustees to use the user identities (IDs) assigned by the Authority and their individual passwords as an authentication to enable them to submit annual returns pursuant to section 10 of Schedule 2 to the Exemption Regulation through the Authority’s website.

SIGNATURE REQUIREMENTS

14. The physical form of annual return of an MPF exempted ORSO registered scheme must be signed by the non-employer trustee of the scheme:

- (a) if the non-employer trustee is a natural person, by that natural person;
- (b) if the non-employer trustee is a company, by a director of the company or his authorized person.

15. There is no signature requirement for electronic submission of annual returns via the eORSO Portal. Non-employer trustees must use the user IDs assigned by the Authority and their individual passwords as an authentication for submission of annual returns through the eORSO Portal.

SUBMISSION OF ANNUAL RETURN

16. The completed annual returns (in either electronic form or batch form) and the relevant documents should be submitted through the eORSO Portal.

17. Hard copy of the completed annual returns and the relevant documents should be submitted and sent to:

Mandatory Provident Fund Schemes Authority
Level 12, Tower 1, The Millennity
98 How Ming Street, Kwun Tong
Hong Kong

DEFINITION OF TERMS

18. 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.

WARNING

19. It is an offence under section 43E of the Ordinance if a person, in any document given to a prescribed person¹ in connection with the Ordinance, makes a statement that the person knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

¹ Prescribed person means (a) the Authority; (b) a system operator of an electronic MPF system; (c) an approved trustee; (d) a trustee of a relevant scheme; or (e) an auditor of an approved trustee or of a registered scheme.