

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.6 Guidelines on MPF Exempted ORSO Schemes – Application for Approval of Appointment of Trustees

INTRODUCTION

Section 7(1) of Schedule 3 to the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) provides that a person who has the duty or power to retire or appoint the trustee of a scheme shall obtain the Mandatory Provident Fund Schemes Authority's (the Authority's) approval in writing before retiring or appointing the trustee.

2. With regard to the appointment of a trustee, section 7(3) of Schedule 3 to the Exemption Regulation requires that the Authority's approval shall be sought by way of an application in writing:

- (a) made to the Authority;
- (b) in a manner and form specified by the Authority;
- (c) by the appointee;
- (d) accompanied by the prescribed fee;
- (e) accompanied by a statutory declaration (in Annex A) as to the character and suitability of the trustee where section 5(1)(c) or (d) of Schedule 3 to the Exemption Regulation applies;
- (f) accompanied by such additional particulars and undertakings as may be required by the Authority.

3. Section 6H of the Mandatory Provident Fund Schemes Ordinance (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.

4. Section 47A of the Ordinance provides that the Authority may specify or approve the form and contents of documents required for the purposes of the Ordinance.

5. The Authority hereby issues guidelines to set out the forms prescribed by the Authority for application for appointment of trustees in respect of ORSO registered schemes which are exempted under section 16 of the Exemption Regulation and prescribe the information and documents to be submitted together with the application forms.

EFFECTIVE DATE

6. These revised Guidelines (Version 6 – June 2024) shall become effective on 13 June 2024. The previous version of these Guidelines (Version 5 – April 2023) shall be superseded on that day.

APPLICATION FOR APPROVAL OF RETIREMENT OR APPOINTMENT OF TRUSTEE

The Applicant and the Prescribed Forms

7. For appointment of a trustee, if the new appointee is a company, the applicant must be the respective company. The application shall be made by the company by completing the prescribed form as set out in Annex B (Form OI-TC). If the new appointee is a natural person, the applicant must be the respective individual. The application shall be made by the natural person by completing the prescribed form as set out in Annex C (Form OI-TI).

8. For retirement of a trustee, there is no prescribed form. An application in writing to the Authority specifying the name of the retiring trustee and the effective date of retirement signed by the person who has the power to retire the trustee will suffice.

9. The prescribed forms in the Annexes can be downloaded from the Authority's website at: www.mpfa.org.hk.

Signature Requirements

10. The application for approval of appointment of a trustee must be signed:

- (a) if the appointee is a natural person, by the appointee;
- (b) if the appointee is a company, by at least two of the directors of the company.

Submission of Application

11. The completed application forms and the relevant application documents should be submitted in hard copies and sent, together with the application fees, to:

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

DEFINITION OF TERMS

12. 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

13. 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 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.