

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.7 Guidelines on MPF Exempted ORSO Schemes – Application for Approval of Appointment of Directors of Trustees

INTRODUCTION

Section 7(2) of Schedule 3 to the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) provides that for a trustee which is a company but is not a trustee to which section 5(1)(a) or (b) of Schedule 3 to the Exemption Regulation applies, i.e. the trustee is not a registered trust company in Hong Kong or the trustee is a company incorporated outside Hong Kong and not comparable to a registered trust company, the trustee shall obtain the Mandatory Provident Fund Schemes Authority's (the Authority's) approval in writing before retiring or appointing, as the case may be, a director of the company.

2. With regard to the appointment of a new director, 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 (see specimen in Annex A) as to the character and suitability of the directors of the trustee where section 5(2) of Schedule 3 to the Exemption Regulation applies;
- (f) accompanied by such additional particulars and undertakings as may be required by the Authority.

3. The new appointee shall meet the standards applicable to directors of a trustee as set out in section 5(2) of Schedule 3 to the Exemption Regulation before the Authority may grant an approval.

4. 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.

5. The Authority hereby issues guidelines to specify the form for application for appointment of a new director of a trustee and prescribe the information and documents to be submitted together with the application form.

EFFECTIVE DATE

6. These revised Guidelines (Version 4 – April 2023) shall become effective on 24 April 2023. The previous version of these Guidelines (Version 3 – February 2016) shall be superseded on that day.

APPLICATION FOR APPROVAL OF RETIREMENT OR APPOINTMENT OF DIRECTOR OF TRUSTEE

Prescribed Form

7. Application shall be made by the new appointee, i.e. the new director, by completing the Form OI-D in Annex B. For retirement of a director of a trustee, there will not be any prescribed forms. An application in writing to the Authority specifying the name of the retiring director and the effective date of retirement signed by the trustee will suffice.

8. The prescribed format of the form in the Annex can be downloaded from the Authority's website at: www.mpfa.org.hk.

Submission of Application

9. The completed application form 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 Millennium
98 How Ming Street, Kwun Tong
Hong Kong

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.

WARNING

11. 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.