

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.8 Guidelines on MPF Exempted ORSO Schemes – Application for Withdrawal of Exemption Certificate of an ORSO Exempted Scheme

INTRODUCTION

Section 8(1) of the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) provides that the Mandatory Provident Fund Schemes Authority (the Authority) may on an application in writing withdraw an exemption certificate of an ORSO exempted scheme where the Authority is satisfied that:

- (a) the grounds for withdrawal warrant the withdrawal; and
- (b) if the certificate is withdrawn, the relevant employer of the ORSO exempted scheme to which the certificate relates will not thereby be in breach of the provisions of the Mandatory Provident Fund Schemes Ordinance (the Ordinance).

2. Section 8(2) of the Exemption Regulation stipulates that an application for withdrawal of exemption certificate of an ORSO exempted scheme shall:

- (a) be made by the relevant employer; where the scheme is a group scheme under section 67 of the Occupational Retirement Schemes Ordinance (Cap. 426) (ORS Ordinance), the application shall be made by the representative employer according to section 25(b) of the Exemption Regulation;
- (b) state the grounds for making the application;
- (c) be made in such form as may be specified by the Authority; and

- (d) be accompanied by such information or documents (including statutory declarations) as may be specified by the Authority.

3. 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.

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 form prescribed by the Authority for withdrawal of exemption certificate of an ORSO exempted scheme under section 8 of the Exemption Regulation and prescribe the information and documents to be submitted together with the form.

EFFECTIVE DATE

6. These revised Guidelines (Version 6 – April 2025) shall become effective on 29 April 2025. The previous version of these Guidelines (Version 5 – June 2024) shall be superseded on that day.

APPLICATION FOR WITHDRAWAL OF EXEMPTION CERTIFICATE OF AN ORSO EXEMPTED SCHEME

Employee's Option

7. According to section 4 of the Exemption Regulation, it is a statutory requirement that the employer of an ORSO exempted scheme shall, within the specified time period, provide a statement to its existing members and new

eligible employees, as defined under section 2 of the Exemption Regulation, that they have a choice to elect between the ORSO exempted scheme and an MPF scheme.

8. In the event that such statement was provided to the members or employees and any such members or employees have given notice to the employers of electing the ORSO exempted scheme, ***employers are strongly advised to communicate full details of their intentions to these members or employees*** before making the application.

The Applicant and the Prescribed Form

9. Application shall be made by the relevant/representative employer in the prescribed form as set out in the Annex (Form WD-EE). The prescribed form can be downloaded from the Authority's website at: www.mpfa.org.hk.

Signature Requirements

10. The application for the withdrawal of exemption certificate of an ORSO exempted scheme must be signed:

- (a) if the applicant is a sole proprietor or a partnership, by the sole proprietor or at least two partners of the partnership, as appropriate;
- (b) if the applicant is a company, by at least two of the directors of the company.

Submission of Application

11. The completed application form and the relevant application documents are requested to be submitted via email to ORSOsubmission@mpfa.org.hk or in hard copies to:

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

The Authority (as the recipient) has given consent to being given the aforesaid documents by the means described in this paragraph 11.

DEFINITION OF TERMS

12. Where a term used in the Guidelines is defined in the Ordinance, the ORS Ordinance or their respective subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance, the ORS Ordinance or their respective 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.