

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.9 Guidelines on MPF Exempted ORSO Schemes – Application for Withdrawal of Exemption Certificate of an ORSO Registered Scheme

INTRODUCTION

Section 19(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 registered 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- (b) if the certificate is withdrawn, the relevant employer of the ORSO registered scheme to which the certificate relates will not thereby be in breach of the provisions of the Mandatory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 19(2) of the Exemption Regulation stipulates that an application for withdrawal of exemption certificate of an ORSO registered 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 registered scheme under section 19 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 The previous version of these Guidelines (Version 5 – June 2024) shall be superseded on that day.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 REGISTERED SCHEME

Employees' Option

7. According to section 15 of the Exemption Regulation, it is a statutory requirement that the employer of a relevant ORSO registered 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 relevant ORSO registered 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 relevant ORSO registered scheme, ***employers are strongly advised to communicate full details of their intentions to these members or employees*** before making the application.

Minimum MPF Benefits

9. In the event of the withdrawal (including deemed withdrawal) under the Exemption Regulation of the exemption certificate which applies to a relevant ORSO registered scheme; or the winding up of a relevant scheme (which means a relevant ORSO registered scheme to which an exemption certificate issued under section 16(1) of the Exemption Regulation applies), the minimum MPF benefits of the new members shall be transferred in accordance with the governing rules of the relevant ORSO registered scheme to an MPF scheme.

The Applicant and the Prescribed Form

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

Signature Requirements

11. The application for the withdrawal of exemption certificate of an ORSO registered 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

12. 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 12.

DEFINITION OF TERMS

13. 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

14. 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

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.

false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.