

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.21 Guidelines on Unclaimed Benefits

INTRODUCTION

Sections 170 to 172A of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation) as in force immediately before the commencement date (as defined in sections 25 to 28 of Schedule 5 to the Regulation)¹ (pre-amended sections 170 to 172A) provide that the approved trustee of a registered scheme must take the steps as specified by the Mandatory Provident Fund Schemes Authority (the Authority) under different circumstances where scheme members are entitled to be paid their accrued benefits but cannot be located. Section 172B of the Regulation as in force immediately before the commencement date (as defined in section 29 of Schedule 5 to the Regulation)¹ (pre-amended section 172B) also requires the approved trustee to report any newly identified unclaimed benefits and those unclaimed benefits that have been claimed by scheme members to the Authority on a quarterly basis for the Authority to maintain a register of unclaimed benefits.

2. With the commencement of section 93 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2021 (the Amendment Ordinance), sections 170 to 172B of the Regulation are repealed.

3. Pursuant to section 25 of Schedule 5 to the Regulation, despite the commencement of section 93 of the Amendment Ordinance, the pre-amended section 170 applies in relation to the accrued benefits of a member of a pre-

¹ The commencement date means the date on which section 93 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2021 (the Amendment Ordinance) comes into operation, i.e. 26 June 2024. Schedule 5 is added to the Regulation pursuant to section 103 of the Amendment Ordinance.

existing scheme unless:

- (a) there is a section 19N notice² in respect of the scheme; and
- (b) the relevant requirement³ has taken effect.

4. Pursuant to sections 26 to 28 of Schedule 5 to the Regulation, despite the commencement of section 93 of the Amendment Ordinance, the pre-amended sections 171 to 172A apply to or in relation to the accrued benefits of a member of a pre-existing scheme unless:

- (a) there is a section 19N notice in respect of the scheme; and
- (b) the relevant requirement has taken effect.

5. Pursuant to section 29 of Schedule 5 to the Regulation, despite the commencement of section 93 of the Amendment Ordinance, the pre-amended section 172B applies to the approved trustee of a pre-existing scheme if:

- (a) there is no section 19N notice in respect of the scheme; or
- (b) there is a section 19N notice in respect of the scheme and, but for the commencement of section 93 of the Amendment Ordinance:
 - (i) the approved trustee would have been required to submit a quarterly report under the pre-amended section 172B within the period specified in the guidelines; and
 - (ii) the end day of the specified period would have fallen on a day before the effective day (i.e. the day specified under section 19N(1) of the Mandatory Provident Fund Schemes Ordinance

² Pursuant to section 19N of the Mandatory Provident Fund Schemes Ordinance (the Ordinance), the Secretary for Financial Services and the Treasury may, by notice published in the Gazette, specify a day for a pre-existing scheme for the purposes of section 19M(2)(a) of the Ordinance, on which day the approved trustee of the pre-existing scheme must begin to use the electronic MPF system and the scheme administration services provided by the system operator of the system to perform a scheme administration function that is not a specific function.

³ Relevant requirement has the meaning given by section 19O(2) of the Ordinance. Pursuant to section 19O(2) of the Ordinance, relevant requirement, in relation to a pre-existing scheme, means the requirement that the approved trustee of the scheme must comply with section 19M(1) of the Ordinance with respect to the scheme administration functions (other than a specific function) of the approved trustee.

(the Ordinance) for the scheme).

6. 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.

7. The Authority hereby issues guidelines to specify:

- (a) the steps to be taken by approved trustees before the benefits are classified as unclaimed benefits for the purposes of the pre-amended sections 170(1), 171(2) and 172A(1);
- (b) the period relating to the presentation of a cheque for payment for the purpose of the pre-amended section 171(4);
- (c) the information relating to unclaimed benefits to be submitted quarterly to the Authority, the format of submission and the period within which the quarterly report must be submitted for the purpose of the pre-amended section 172B; and
- (d) the means by which the report is requested to be submitted to the Authority⁴.

EFFECTIVE DATE

8. These revised Guidelines (Version 4 – June 2024) shall become effective on the date of commencement of operation of sections 93 and 103 of the Amendment Ordinance, i.e. 26 June 2024. The previous version of these Guidelines (Version 3 – March 2017) shall be superseded on that day.

STEPS TO BE TAKEN BY THE APPROVED TRUSTEE TO LOCATE

⁴ The means is not specified for the purpose of the pre-amended section 172B(2).

THE SCHEME MEMBER OR CLAIMANT

9. Subject to paragraphs 2 and 3 above, if a member of a registered scheme or some other person has become entitled to be paid the member's accrued benefits but no claim has been lodged with the approved trustee of the scheme for payment of the member's benefits and the trustee becomes aware that the member or other person cannot be located, the trustee must, as soon as practicable after becoming so aware, take such steps as are specified in the guidelines, pursuant to the pre-amended section 170(1).

10. Subject to paragraphs 2 and 4 above, where a member of a registered scheme or some other person has lodged a claim with the approved trustee of the scheme for payment of the member's accrued benefits and the trustee is satisfied that the member or other person is entitled to be paid the benefits but the trustee becomes aware that the claimant cannot be located before payment of the benefits, the trustee must, as soon as practicable after becoming so aware, take such steps as are specified in the guidelines, pursuant to the pre-amended section 171(1) and (2).

11. Subject to paragraphs 2 and 4 above, if the approved trustee of a registered scheme becomes aware that a scheme member on whom a benefit statement has been served under the pre-amended section 172(4) cannot be located while the member's accrued benefits are being retained in the scheme, the trustee must, as soon as practicable after becoming so aware, take such steps as are specified in the guidelines, pursuant to the pre-amended section 172A(1).

12. If the approved trustee cannot locate the member or other person within six months after taking the specified steps, the accrued benefits in any of the circumstances referred to in paragraph 9, 10 or 11 above would become unclaimed benefits at the end of that period.

13. For the purposes of the pre-amended sections 170(1), 171(2) and 172A(1), the steps* to be taken by approved trustees before they can classify the accrued benefits of a scheme member as unclaimed benefits are set out as follows:

- i. Send the scheme member/person a notice to the last known residential and correspondence address(es), if available;
- ii. Make three attempts (at different times and dates) within one month, to locate the scheme member/person via other means of contact, if known (e.g. all contact phone number(s) or fax); and
- iii. Contact the employer concerned to obtain any contact information of the scheme member and if the contact information so obtained is different from that in the records of the trustee, repeat steps (i) and (ii) above (as the case may be).

* Apart from the steps specified above, trustees are encouraged, as far as reasonable, to use any possible communication means to contact the claimant.

PERIOD FOR A CHEQUE TO BE EXPIRED

14. Subject to paragraphs 2 and 4 above, if a cheque has been sent by the approved trustee to a claimant in payment of a scheme member's accrued benefits but the cheque is not presented for payment within the period specified in the guidelines (Specified Period) and the trustee is not able to locate the claimant during the period of six months after the expiry of the Specified Period, the benefits become unclaimed benefits at the end of the 6-month period, pursuant to pre-amended section 171(4).

15. For the purpose of the pre-amended section 171(4), the Specified Period shall be six months from the issuance date of the cheque. However, if the trustee receives a returned cheque before the expiry of the Specified Period,

the trustee should take immediate follow-up actions to locate the claimant.

REPORT – PRESCRIBED FORMAT AND INFORMATION AND PERIOD OF SUBMISSION

Report to the Authority in Respect of Unclaimed Benefits under Pre-amended Section 172B

16. Subject to paragraphs 2 and 5 above, when submitting the report of unclaimed benefits to the Authority, the approved trustee of a registered scheme must ensure that the report is in the prescribed format and includes the following information:

A. Particulars of scheme members with unclaimed benefits in the scheme as at the end of the quarter to which the report relates and whose particulars have not previously been provided to the Authority

| | |
|-------------------------------------------------------------------------------------------|--|
| Date of Report | |
| Scheme Registration Number | |
| Approval Number of Trustee | |
| English Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Chinese Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| HKID Card Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Passport Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| MPF Membership Number/Other Reference Number of the Scheme Member with Unclaimed Benefits | |
| Type of Unclaimed Benefits | |
| Date of the Reported Quarter End | |
| Amount of Unclaimed Benefits | |

B. Particulars of scheme members whose unclaimed benefits have been claimed in the quarter to which the report relates

| | |
|-------------------------------------------------------------------------------------------|--|
| Date of Report | |
| Scheme Registration Number | |
| Approval Number of Trustee | |
| English Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Chinese Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| HKID Card Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Passport Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| MPF Membership Number/Other Reference Number of the Scheme Member with Unclaimed Benefits | |
| Date of the Reported Quarter End | |
| Payment Date of Unclaimed Benefits | |
| Amount of Unclaimed Benefits Paid | |

C. Particulars of scheme members who have unclaimed benefits in the scheme as at the end of the quarter to which the report relates

| | |
|-------------------------------------------------------------------------------------------|--|
| Date of Report | |
| Scheme Registration Number | |
| Approval Number of Trustee | |
| English Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Chinese Name of the Scheme Member with Unclaimed Benefits (if applicable) | |
| HKID Card Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| Passport Number of the Scheme Member with Unclaimed Benefits (if applicable) | |
| MPF Membership Number/Other Reference Number of the Scheme Member with Unclaimed Benefits | |

| | |
|------------------------------|--|
| Type of Unclaimed Benefits | |
| Date of Reported Quarter End | |
| Amount of Unclaimed Benefits | |

17. The trustee should submit the report within seven specified working days after the end of each quarter.

Submission of Report

18. In view of the fact that the data required under paragraph 16 above might be voluminous, the approved trustee of a registered scheme is requested to submit the report to the Authority by electronic means in accordance with the requirements for electronic interface as notified by the Authority from time to time, and enclose a covering letter with a summary of the information submitted when submitting the report.

19. The Authority (as the recipient) has given consent to being given the aforesaid report by the means described in paragraph 18 above.

DEFINITION OF TERMS

20. 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

21. It is an offence under section 43E of the Ordinance if a person, in any document given to a prescribed person⁵ in connection with the Ordinance,

⁵ 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.

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.