

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

V.1 Guidelines on MPF Exempted ORSO Schemes - Application for Exemption of ORSO Exempted Schemes

INTRODUCTION

Section 5(1) of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides for the exemption of the members and their employers of occupational retirement schemes from the operation of all or any specified provisions of the Ordinance.

2. Section 5 of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) sets out the detailed requirements with respect to the application for exemption of ORSO exempted schemes.

3. The Authority hereby issues guidelines relating to the application for exemption of ORSO exempted schemes under the Ordinance and the Exemption Regulation.

APPLICATION FOR APPROVAL

Eligibility

4. According to section 2 of the Exemption Regulation, an ORSO exempted scheme means -

- (a) an exempted scheme within the meaning of section 2 of the Occupational Retirement Schemes Ordinance (Cap. 426) (“the ORS Ordinance”); or
- (b) an occupational retirement scheme within the meaning of the ORS Ordinance where the employer of the scheme is the government of

a place outside Hong Kong or an agency or undertaking of or by such a government which is not operated for the purpose of gain.

The Applicant

5. The applicant making an application for exemption of an ORSO exempted scheme must be the relevant employer (as defined under section 2 of the ORS Ordinance) of the Scheme. In case the Scheme is a group scheme under section 67 of the ORS Ordinance, the application can be made by one of the relevant employers of the Scheme and the application shall be deemed to be made by each relevant employer of the Scheme under section 25(a) of the Exemption Regulation.

Prescribed Forms

6. In making an application to the Authority for exemption of an ORSO exempted scheme, the applicant must:

- (a) make the application in the prescribed format as set out in Annex (Form EE);
- (b) pay the application fee prescribed of such amount as may be prescribed by the regulations; and
- (c) make the application before the specified date, i.e. a date specified by the Authority by notice in the Gazette.

7. The prescribed format of the form in the Annex can be downloaded from the Authority's website at:

<http://www.mpfa.org.hk>

Definition of Terms

8. 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.

Signing Requirements

9. The application for exemption 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 2 partners of the partnership, as appropriate;
- (b) if the applicant is a company, by at least 2 of the directors of the company.

Submission of Application

10. Completed application form and the relevant documents, if any, should be submitted in hard copies and sent, together with the application fees, to:

Mandatory Provident Fund Schemes Authority
Level 8, Tower 1, Kowloon Commerce Centre
51 Kwai Cheong Road, Kwai Chung
Hong Kong

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 the Authority, makes a statement that he knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

FORM EE

**MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
("the Ordinance")**

APPLICATION FOR EXEMPTION OF ORSO EXEMPTED SCHEME

NOTES:

- (1) *The applicant making an application for exemption of ORSO exempted schemes should read the "Guidelines on MPF Exempted ORSO Schemes - Application for Exemption of ORSO Exempted Schemes" before submitting the application.*
 - (2) *Please read the Notes on Personal Information Collection before completing this Form.*
 - (3) *All questions must be answered. If any question is not applicable, please write "N.A."*
 - (4) *If boxes are provided, please tick whichever is appropriate.*
 - (5) ** means delete whichever is inappropriate.*
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FOR OFFICIAL USE ONLY

Application no.: _____	Date application received: _____
Fee receipt no.: _____	Subject officer: _____
Date of fee receipt: _____	Input officer: _____
Date of letter of acknowledgement: _____	Verification officer: _____

SECTION I - PARTICULARS OF THE ORSO EXEMPTED SCHEME (“the Scheme”)

(1) Exemption number issued by the Office of the Registrar of Occupational Retirement Schemes (if applicable): E -

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(2) Name of the Scheme (in English): _____

(in Chinese, if any): _____

(3) Date of establishment of the Scheme:

Day		Month		Year			

(4) Any change in the particulars of the relevant employers not yet reported to the Registrar of Occupational Retirement Schemes? (e.g. change in name, address, telephone numbers, etc.) Yes No

(5) Please provide the following information if the answer to (4) is Yes OR if the relevant employer is not required to obtain exemption under section 3(4) of the Occupational Retirement Schemes Ordinance: (Please use separate sheet if more than 1 relevant employer is involved)

Particulars of the relevant employer:-

(a) Name (in English): _____
(Insert surname first for individual)

(b) **Registered office in Hong Kong/Principal place of business in Hong Kong/Business address/Residential address* (in English):

Flat/Room	Floor	Block	Name of building

Street no.	Name of street

	<i>*Hong Kong/Kowloon/N.T.</i>
Name of district	

(c) Telephone no.: _____ Fax no.: _____

(d) Business registration no. in Hong Kong, if any : _____

- (6) Is membership to the Scheme compelled by an enactment of a place outside Hong Kong?

Yes

No

- (7) If the answer to (6) is Yes, please state the place of enactment and the relevant name of the enactment

Place: _____

Name of relevant enactment:

SECTION II - DECLARATION

(For relevant employer who is a sole proprietor or a partner) I certify that I have read the Notes on Personal Information Collection and understand my rights and obligations in relation to the supply of personal data to the Mandatory Provident Fund Schemes Authority (“the Authority”) and the manner in which the Authority may use or deal with the data.

I/we* declare that to the best of my/our* knowledge and belief the information given in this application form is correct and complete. ✦

I/we* undertake to notify the Authority of any matter which affects the validity of any information given in support of our application.

After the application is approved, I/we* undertake to notify the Authority of any material changes to, or affecting the completeness or accuracy of, the information provided in this Form as soon as possible.

Name of applicant:

Signature and company chop
(to be signed by two directors if the applicant is a company):

Name of person(s) signing:

Title or position of person(s) signing:

Date:

✦ **Warning:** Section 43E of the Ordinance makes it an offence punishable with a maximum of 1 year imprisonment for the first occasion and 2 years imprisonment on each subsequent occasion for a person who makes a false or misleading statement in a material aspect.

Name and telephone no. of the contact person for the Authority’s enquiries in connection with this application –

Name: _____

Telephone no.: _____

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

NOTES ON PERSONAL INFORMATION COLLECTION

The Personal Data (Privacy) Ordinance came into force on 20 December 1996. These Notes are prepared to assist you in understanding your rights and obligations in relation to the supply of personal data by you to the Mandatory Provident Fund Schemes Authority (“the Authority”) (which data may relate to yourself or other persons) and the manner in which the Authority may use or deal with such data (in connection with application and other matters). You are strongly advised to read these Notes carefully.

1. The provision of personal data is required pursuant to various provisions of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) and of the regulations and rules made under the Ordinance, including the following:
 - (a) Section 20 of the Ordinance, Part II of the Mandatory Provident Fund Schemes (General) Regulation (“the General Regulation”), and sections 42A, 42B, 42C and 42D of the General Regulation in relation to the application for approval as trustees and the application for approval as controllers of approved trustees;
 - (b) Section 21 of the Ordinance and Part III of the General Regulation in relation to the application for registration of schemes;
 - (c) Section 36 of the General Regulation in relation to the approval of constituent funds;
 - (d) Section 6 of the General Regulation in relation to the approval of pooled investment funds;
 - (e) Section 7AB of the Ordinance in relation to submission of statements;
 - (f) Section 5 of the Ordinance, and sections 5, 14 and 16 of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) in relation to the application for exemption from MPF requirements;
 - (g) Section 7(3) of Schedule 3 to the Exemption Regulation in relation to the application for appointment of trustees/directors of trustees for MPF exempted ORSO registered schemes;
 - (h) Section 8 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO exempted schemes; and
 - (i) Section 19 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO registered schemes.

Provision of such personal data is necessary for the exercise or performance of the functions of the Authority conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder). Failure to supply the requested personal data may result in delay or refusal of the application if it affects the Authority’s ability to assess the applicant’s compliance with the applicable criteria.

2. The personal data supplied by you shall be used by the Authority for the purposes of exercising or performing its functions conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder), including whatever surveillance, investigation, inspection or enforcement action necessary to the discharge of such functions.
3. In the course of exercising or performing its functions, the Authority may, as permitted by law, match, compare, transfer or exchange the data provided by you with data held, or hereafter obtained, for these or any other purposes by the Authority, government bodies, other regulatory authorities, corporations, organizations or individuals in Hong Kong or overseas for the purposes of the Ordinance.
4. Specified data relating to approved trustees, registered schemes and MPF exempted ORSO registered/exempted schemes are kept open for public inspection pursuant to sections 20C, 21B and 5A of the Ordinance respectively.
5. You may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied by you, in the manner and subject to the limitations prescribed therein. All enquiries should be directed to:

Personal Data Privacy Officer
Mandatory Provident Fund Schemes Authority
Level 8, Tower 1, Kowloon Commerce Centre
51 Kwai Cheong Road, Kwai Chung
Hong Kong