



強制性公積金計劃管理局  
MANDATORY PROVIDENT FUND  
SCHEMES AUTHORITY

6 July 2006

Circular Letter: EF/CTR/2006/001

To: All approved trustees of registered MPF schemes

*By Fax & By Post*

Dear Sirs

**Protection of Benefits on Bankruptcy Under the  
Mandatory Provident Fund Schemes Ordinance (Cap. 485) (“MPFSO”)**

On 10 May 2003, the Authority issued a circular letter (SU/CTR/2003/005), specifying that accrued benefits derived from mandatory contributions in respect of a member of an MPF scheme are protected and do not vest in the trustee in bankruptcy by virtue of the MPFSO, notwithstanding the provisions of the Bankruptcy Ordinance (Cap. 6).

The Authority has constantly received enquiries from some trustees regarding scheme administration issues related to bankrupt scheme members. In this regard, the Authority has liaised with the Official Receiver’s Office (“ORO”) and our consensus on the treatment of a bankrupt member’s MPF accrued benefits are set out as follows:

**General Principle**

- (a) Accrued benefits derived from mandatory contribution (MC) do not vest in the Trustee in Bankruptcy (TIB), provided that the accrued benefits are still held in the member’s MPF account (section 16 of the MPFSO).
- (b) The TIB will not have a claim over the accrued benefits derived from the MC that are paid to the bankrupt after his discharge.
- (c) If accrued benefits derived from MC are to be paid to an undischarged bankrupt, the TIB will be able to claim the amount as property of the bankrupt.

- (d) Section 16 of the MPFSO has no application to voluntary contributions (VC) or other schemes which are exempted from the application of the MPFSO (MPF exempted ORSO schemes). The treatment of VC and the MPF exempted ORSO schemes will depend on the terms of the scheme including the forfeiture clause, if any, the terms of the employment and other relevant circumstances of the case.

Transfer / Payment of Accrued Benefits

- (a) For transfer of accrued benefits from one MPF Scheme to another without proposed payment of accrued benefits, no approval from the ORO is necessary but prior notice to ORO is required.
- (b) However, prior consent would be required from the ORO in respect of any proposed payment of accrued benefits, including offsetting of long service pay (LSP) / severance pay (SP).

Communication with the ORO

To standardize the practices of trustees and facilitate the communication between trustees and the ORO, the Authority has developed standard forms for the trustees to notify the ORO of any transfer / payment of accrued benefits for members of MPF schemes / ORSO schemes (Annexes A and B). Trustees are recommended to use these forms in communicating with the ORO regarding request for transfer / payment of accrued benefits of bankrupt scheme members.

Should you have any enquiries, please feel free to contact your case officer in the Authority.

Yours faithfully

(Hendena YU)  
Chief Operating Officer (Compliance)

Encl.

To: Official Receiver’s Office

**Request for Transfer / Payment of Accrued Benefits of Bankrupt Member  
(For MPF Schemes)**

We write to inform you that a member of our MPF scheme has lodged an application for transfer / payment\* of accrued benefits. We are previously informed by ORO that the following member is a bankrupt. Details of the transfer / payment\* are as follows:

- (1) Name of the scheme member : \_\_\_\_\_
- (2) HKID Card / Passport\* number <sup>Note 1</sup> of the scheme member : \_\_\_\_\_
- (3) Bankruptcy Number ( if known): \_\_\_\_\_
- (4) Name of MPF Scheme: \_\_\_\_\_
- (5) Estimated accrued benefits value as at (DD-MM-YY)<sup>Note 2</sup>

Scheme Member’s Account No(s) <sup>Note 3</sup> :	Mandatory Contributions			Voluntary Contributions				Total
	Transfer-in	Employer	Employee	Transfer-in	Employer		Employee	
					Vested	Unvested		

Please ✓ the appropriate box:

**TRANSFER OF ACCRUED BENEFITS** (For ORO/TIB information only, no reply required)

- (1) Details of the account **against** which accrued benefits are to be transferred:
  - Transfer-in balances in mandatory contributions accounts
  - Employee’s mandatory contributions
  - Employer’s mandatory contributions
  - Transfer-in balances in voluntary contributions accounts
  - Employee’s voluntary contributions
  - Employer’s voluntary contributions (vested benefits)
  - Employer’s voluntary contributions (unvested benefits to employer’s account)

Account Numbers: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

- (2) Details of the account **to** which accrued benefits are to be transferred:

Name of the trustee : \_\_\_\_\_

Name of the scheme : \_\_\_\_\_

Scheme member’s account number (if known) : \_\_\_\_\_

\* delete as appropriate

**PAYMENT OF ACCRUED BENEFITS**

(1) Details of accounts against which payment(s) are claimed / withdrawn:

- Transfer-in balances in mandatory contributions accounts
- Accrued benefits derived from Employee's mandatory contributions
- Accrued benefits derived from Employer's mandatory contributions
- Transfer-in balances in voluntary contributions accounts
- Accrued benefits derived from Employee's voluntary contributions
- Accrued benefits derived from Employer's voluntary contributions (vested)
- Others, please specify details together with the amount: \_\_\_\_\_

Account Numbers: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(2) Grounds for claiming / withdrawal of accrued benefits:

- Retirement (i.e. scheme member has reached the retirement age of 65)
- Early retirement (i.e. scheme member has reached the age of 60 and has permanently ceased all employments / self-employment)
- Total incapacity
- Death
- Permanent departure from Hong Kong
- Small balance account
- For offsetting severance payment / long service payment
  - To the Employer with amount of HK\$ \_\_\_\_\_
  - To the Employee with amount of HK\$ \_\_\_\_\_
- Cessation of employment (for withdrawal of accrued benefits derived from voluntary contributions only)
- Others, please specify: \_\_\_\_\_

I would be grateful if the Official Receiver's Office could reply to us whether the accrued benefits could be released to the scheme member / employer by 10 working days from the date of this letter.

\_\_\_\_\_  
(Signature and Chop of MPF Trustee)

**Explanatory Notes**

1. Claimants or scheme members should give their passport numbers ONLY when they do NOT possess HKID cards.
2. Accrued benefits value should include the value of the benefits transferred from previous jobs (if any), benefits derived from the current employer's and employee's voluntary and mandatory contributions that are **vested and unvested** to the members as at the latest available date.
3. Trustees should show the accrued benefits value of each account held under the scheme even though the accrued benefits of the account is not to be transferred or paid in respect of the bankrupt member.

To: Official Receiver's Office

**Request for Transfer / Payment of Accrued Benefits of Bankrupt Member  
(For ORSO Schemes)**

We write to inform you that a member of our ORSO scheme has lodged an application for transfer / payment\* of accrued benefits. We are previously informed by ORO that the following member is a bankrupt. Details of the transfer / payment\* are as follows:

- (1) Name of the scheme member : \_\_\_\_\_
- (2) HKID Card / Passport\* number <sup>Note 1</sup> of the scheme member : \_\_\_\_\_
- (3) Bankruptcy Number ( if known): \_\_\_\_\_
- (4) Name of ORSO Scheme: \_\_\_\_\_
- (5) Estimated accrued benefits value as at (DD-MM-YY)<sup>Note 2</sup> \_\_\_\_\_

Scheme Member's Account No(s) <sup>Note 3</sup> :	Minimum MPF Benefits ("MMB")	Voluntary Contributions				Total
		Transfer-in	Employer		Employee	
			Vested	Unvested		

Please ✓ the appropriate box:

**TRANSFER OF ACCRUED BENEFITS** (For ORO/TIB information only, no reply required)

- (1) Details of the account **against** which accrued benefits are to be transferred:
  - MMB
  - Transfer-in balances in voluntary contributions accounts
  - Employee's voluntary contributions
  - Employer's voluntary contributions (vested benefits)
  - Employer's voluntary contributions (unvested benefits to employer's account)

Account Numbers: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

- (2) Details of the account **to** which accrued benefits are to be transferred:

Name of the trustee : \_\_\_\_\_  
Name of the scheme : \_\_\_\_\_  
Scheme member's account number (if known) : \_\_\_\_\_

\* delete as appropriate

**PAYMENT OF ACCRUED BENEFITS**

(1) Details of accounts against which payment(s) are claimed / withdrawn:

- MMB
- Transfer-in balances in voluntary contributions accounts
- Accrued benefits derived from Employee's voluntary contributions
- Accrued benefits derived from Employer's voluntary contributions (vested)
- Others, please specify details together with the amount: \_\_\_\_\_

Account Numbers: (1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

(2) Grounds for claiming / withdrawal of accrued benefits:

- Retirement (i.e. scheme member has reached the retirement age of 65)
- Early retirement (i.e. scheme member has reached the age of 60 and has permanently ceased all employments / self-employment)
- Total incapacity
- Death
- Permanent departure from Hong Kong
- Small balance account
- For offsetting severance payment / long service payment
  - To the Employer with amount of HK\$ \_\_\_\_\_
  - To the Employee with amount of HK\$ \_\_\_\_\_
- Cessation of employment (for withdrawal of accrued benefits derived from voluntary contributions only)
- Others, please specify: \_\_\_\_\_

I would be grateful if the Official Receiver's Office could reply to us whether the accrued benefits could be released to the scheme member / employer by 10 working days from the date of this letter.

\_\_\_\_\_  
(Signature and Chop of OSRO Scheme Trustee)

**Explanatory Notes**

1. Claimants or scheme members should give their passport numbers ONLY when they do NOT possess HKID cards.
2. Accrued benefits value should include the value of the benefits transferred from previous jobs (if any), benefits derived from the current employer's and employee's voluntary and mandatory contributions that are **vested and unvested** to the members as at the latest available date.
3. Trustees should show the accrued benefits value of each account held under the scheme even though the accrued benefits of the account is not to be transferred or paid in respect of the bankrupt member.