



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

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Circular Letter: SU/CTR/2003/007

To: All Approved Trustees of Registered Schemes

Dear Sirs,

**Issuance of Financial Penalty Notices  
Late Processing of Transfers and Payments of Accrued Benefits**

This circular letter is to inform approved trustees (“trustees”) of the Authority’s current policy in respect of issuance of intention to issue financial penalty notices regarding failure to complete processing of requests of transfers and payments within the statutory time frame.

***Legislative Requirements on Transfers and Payments***

Pursuant to section 153(2) of the Mandatory Provident Fund Schemes (General) Regulation (“Regulation”), within 30 days of being notified of an election to transfer accrued benefits to another account, a trustee must take all practicable steps to ensure that the accrued benefits of the member concerned are transferred in accordance with the election. Section 153(3) of the Regulation imposes a similar obligation with respect to transfers within the same scheme.

Pursuant to sections 166(1) and (2) of the Regulation, upon receiving a valid claim for payment of a scheme member’s accrued benefits, the trustee must, subject to section 167 of the Regulation, ensure that those accrued benefits are paid to the claimant not later than 30 days (60 days if there are outstanding contributions or contribution surcharges in respect of the member) after the lodgment of the claim.

### ***Issuance of Financial Penalty Notices***

Pursuant to section 45B of the Mandatory Provident Fund Schemes Ordinance, the Authority may serve on a person a notice requiring payment of a prescribed financial penalty if it reasonably believes that the person has, inter alia, failed to perform a duty or comply with a requirement or standard specified in a prescribed provision. Sections 153 and 166 are among the prescribed provisions for imposition of financial penalties.

It is the Authority's practice that, prior to serving a trustee a notice requiring payment of a prescribed financial penalty, a letter will be issued to the trustee informing it of the Authority's intention to issue a financial penalty notice, setting out the reason for issuing the notice and inviting the trustee to make representations ("intention notice"). Trustees will be given the opportunity to make representations before the matter is taken further.

### ***Breaches Relating to Transfers and Payments***

Since implementation of the MPF system, the Authority has identified, through on-site inspections and handling of complaints and enquiries, a number of cases in which trustees have failed to complete processing requests for transfer and payment of accrued benefits within the statutory time frame ("identified breaches"). In recent months, the Authority has also received a number of reports from trustees on delays in processing transfer and payment requests ("self-reported breaches").

### ***General Policy for Issuance of Intention Notices***

In view of the operational problems encountered by trustees during the initial launch of the MPF system and the need to adjust systems consequent to the subsequent legislative amendments, the Authority has so far adopted a lenient approach to such breaches.

However, as the MPF system has already been in place for nearly three years, the Authority now expects strict compliance by trustees with the statutory requirements. The Authority will continue to review each case individually, and will generally take into account the following factors:

- (a) the number of days by which the completion of the transfer or payment exceeds the statutory time frame;
- (b) the cause of the breach;
- (c) the extent to which a member's interests have been prejudiced, if any;
- (d) whether the breach is an identified breach or a self-reported breach; and

- (e) the steps taken by the trustee since receiving notification of the transfer election or claim for payment.

Trustees are reminded that if they fail to report in a timely manner any breaches that are required to be reported pursuant to section 62 of the Regulation, the Authority will consider issuing intention notices for the late or non-reporting of these significant events under section 62.

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

Yours faithfully,

(Hendena Yu)  
Chief Operating Officer (Compliance)