

Circular Letter : SU/COT/2002/001

19 July 2002

(To ORSO Schemes administrators)

Dear Sirs,

**Mandatory Provident Fund Schemes (Amendment) Bill 2002**  
**Transfer of existing members between MPF Exempted ORSO Schemes**

You may be aware that the captioned Bill had been passed and the amended legislation had come into effect on 19 July 2002. One of the amendments was on the membership status of an existing member being transferred between MPF exempted ORSO schemes. As you are the ORSO schemes administrator, we would like to draw your attention to this particular amendment. In your future handling of the related transfer, please also ensure that the affected employers are well informed of the change.

According to section 2 of the MPF (Exemption) Regulation (the "Regulation"), a scheme member of an MPF exempted ORSO scheme who joined the scheme on or before the relevant date (i.e. 1 December 2000) is known as an "existing member," while the one who joined the scheme after 1 December 2000 is regarded as a "new member". Under certain circumstances such as inter-group transfers or scheme restructuring, an existing member of an MPF exempted ORSO scheme may be transferred to another MPF exempted ORSO scheme after 1 December 2000. Under the previous legislation, the transferred member will become a "new member" and is thus subject to the requirements of preservation, portability and withdrawal of Minimum MPF Benefits("MMB").

In most circumstances, the transferred member is under continuous employment after the transfer. In line with the legislative intent to minimize disruption of the existing employment contract and thus grandfather the existing member from the requirements of preservation, portability and withdrawal of MMB, a subsection 4 is added to section 2 of the Regulation whereas an employee's "existing member" status is maintained upon the transfer between MPF exempted ORSO schemes under certain conditions as set out below:

In respect of a scheme member who is an existing member of an MPF exempted ORSO scheme (the “old scheme”) and who is being transferred to a new scheme, where the new scheme is -

- (a) a successor scheme as established under section 14(1) of the Regulation; or
- (b) operated by the same employer of the old scheme; or
- (c) operated by a different employer in the circumstances specified in section 70A(6)(a) of the Occupational Retirement Schemes Ordinance (the “Ordinance”); or
- (d) operated by an associated company in the circumstances specified in section 70A(6)(b) of the Ordinance,

then the member shall be treated as an existing member of the new scheme if –

- (e) no benefits have been or are to be paid under the old scheme to the existing member as a result of the transfer;
- (f) an amount not less than the past service liability of the existing member has been or is to be transferred from the old scheme to the new scheme as a result of the transfer;
- (g) the value of vested benefit and past service liability (collectively the “benefits”) in respect of benefit entitlement conferred by or to be conferred by the new scheme to the existing member at the time immediately after the transfer will not be less than the value of benefits of the member under the old scheme immediately before the transfer;
- (h) the period of employment of the existing member during which he is a member of the old scheme is recognized under the new scheme; and
- (i) in any event where section 70A(6)(a) or (b) of the Ordinance is applicable to the transfer, that section has been complied with and no benefits held in an ORSO scheme in respect of the existing member have been paid in accordance with section 70A(6) of the Ordinance to the existing member or the employer of the old scheme.

Please refer to the legislation for the original content of the above amendment. Should you have any queries regarding the above, please contact us at 2292 1132.

Yours faithfully,

(Hendena Yu)  
Chief Operating Officer (Compliance)