



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

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18 November 2010

**Circular Letter: SU/COT/2010/002**

**To: All representative relevant employers of ORSO schemes**

Dear Sir/Madam,

**Occupational Retirement Schemes Ordinance (“the Ordinance”)  
Mandatory Provident Fund Schemes (Exemption) Regulation  
Matters relating to ORSO scheme administration matters**

It has recently come to our notice that some employers do not report changes pertaining to relevant employers or administrators in respect of ORSO schemes, in accordance with the statutory requirements. In addition, there are also occasions when the relevant ORSO scheme documents are not submitted to the MPFA as required by law.

Also, the opportunity is taken with the issue of this letter to advise you about revisions to our performance pledges and the issue of a new Guideline applicable to MPF exempted ORSO registered schemes.

In this regard, your attention is drawn, as an employer of an ORSO scheme, to the following aspects of the operation of these schemes and you are reminded to adhere to these legislative requirements.

### **Notice of change of relevant employer / Notice of change of administrator of a registered scheme**

- Section 10(1)(e) and Section 21A(1) of the Ordinance requires a relevant employer to notify the MPFA of a change in the details of that employer in accordance with the Occupational Retirement Schemes (Notices of Changes) Rules within one month of the change. This requirement also applies to a relevant employer in a group ORSO scheme.
- Section 22(1)(b) and Section 67(2)(ge) of the Ordinance requires respectively the relevant employer and representative employer of an ORSO registered scheme to notify the Authority of any change in the administrator of the scheme within one month of the change.
- Any relevant employer or representative employer who fails to comply with the above requirements commits an offence and is liable on summary conviction to a fine of \$10,000.

### **Power of Attorney**

- Section 67 of the Ordinance requires relevant employers joining a group ORSO scheme to nominate by power of attorney (“POA”) one of their number as the representative employer for the purposes of the scheme. Pursuant to section 2(5)(b) of the Occupational Retirement Schemes (Authentication and Certification of Documents) Rules (“Rules”), the POA must be authenticated if it is executed by a body corporate which does not have a place of business in Hong Kong.
- Please note that effective immediately, the Authority will only accept an authentication to the effect that the POA is “duly executed and valid under the law of the place in which it is made”. Pursuant to section 2(4) of the Rules, the authentication must be by a notary public exercising his or her functions in the place where the POA was executed or any other person authorized under the laws of that place to administer an oath or take a statutory declaration. Depending on the circumstances (e.g. where the place of execution of the POA and the place of incorporation of the relevant employer are different), the MPFA may require authentication by using specific wordings to be given to the relevant employer by the MPFA or provision by the relevant employer of an appropriate legal opinion confirming due execution and validity of the POA.
- If the relevant employer does not have a common seal, copies of the documents and information evidencing that the signatory of the POA is authorized to sign the POA, will need to be provided. Such documents may include board resolutions, authorization letter, power of attorney, specimen signatures and any

other documents and information as the Authority deems necessary.

**Determination of Contribution Due Date** (*applicable to MPF exempted ORSO registered schemes only*)

- The manner in which the contribution due date is required to be determined is set out in section 3 of the Occupational Retirement Schemes (Recovery of Arrears) Rules (“the RA Rules”). Please review your scheme’s contribution requirements (e.g. scheme rules) to ensure that the contribution due date is determined in accordance with the RA Rules.
- Section 3(1) of the RA Rules provides that if the contribution requirements of an MPF exempted ORSO scheme specify the date on which the relevant employer is to pay a contribution, the due date for that contribution shall be the date so specified. If the contribution requirements have not been specified in accordance with section 3(1) or section 3(2)(a), section 3(2)(b) of the RA Rules shall apply. This means that the applicable contribution due date should be the 10<sup>th</sup> day after the “relevant period”. “Relevant period” means each period in respect of which a contribution is required to be paid as required under the scheme’s contribution requirements.
- If you are unsure as to whether your scheme complies with section 3 of the RA Rules, please seek assistance from the scheme’s trustee and / or your legal adviser. Failure to comply with the RA Rules may result in the late payment of contributions. Please note that the Authority has the power to issue late payment notices and to impose contribution surcharges and financial penalties on employers who breach these requirements.

**Performance Pledge**

- The opportunity is also taken to inform you of changes to the Authority’s standard response time in processing applications and providing other services relating to ORSO schemes. Please find attached a copy of the new leaflet on pledged service standards which supersedes the version issued in September 2003. These new service standards will come into effect on 1 January 2011. Major changes include using working days instead of calendar days in the counting of service standard timeframes.

**Investment Managers** (*applicable to MPF exempted ORSO registered schemes only*)

- Guidelines V.12 Guidelines on MPF Exempted ORSO Schemes – Investment Managers (English and Chinese Version) as endorsed by the Management Board of the Mandatory Provident Fund Schemes Authority, has been issued. For details, please visit our website at

[http://www.mpfa.org.hk/english/leg\\_reg/leg\\_reg\\_gui/leg\\_reg\\_gui\\_p5/leg\\_reg\\_gui\\_p5.html](http://www.mpfa.org.hk/english/leg_reg/leg_reg_gui/leg_reg_gui_p5/leg_reg_gui_p5.html)

If you have any questions about the contents of this letter, please contact our hotline on 2918 0102.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robin Gill', with a horizontal line underneath the name.

(Robin Gill)  
Chief Manager  
Supervision Division

Encl.



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## PERFORMANCE PLEDGES FOR ORSO SCHEMES

We pledge at least 95% achievement of the service standards listed in the following table.

	Service	Service Standard	Applicable Schemes
(1)	Process applications by trustees/administrators or employers for registration/exemption of ORSO schemes	Complete processing of applications within 20 working days after receipt of all required information and documents.	Both MPF - exempt and non MPF - exempt
(2)	Process applications by the public for search on the register of ORSO registered/exempted schemes	<ul style="list-style-type: none"> <li>Provide copy of an entry in the register within 1 service hour upon receipt of application.(Note)</li> <li>Provide certified copy of an entry in the register within 1 service hour upon receipt of application.(Note)</li> </ul>	Both MPF - exempt and non MPF - exempt
(3)	Process applications by trustees/administrators or employers for cessation of application of pooling agreements to ORSO registered schemes	Complete processing of applications within 10 working days after receipt of a written confirmation from trustee/administrators on date of cessation.	Both MPF - exempt and non MPF - exempt
(4)	Process applications by trustees for MPF exemption of relevant ORSO Registered Schemes (S.14 and 16 of the MPFS (Exemption) Regulation)	Complete processing of applications within 12 working days after receipt of all required information and documents.	Only MPF - exempt
(5)	Process applications by trustees or employers for change of trustee or director of trustee	Complete processing of applications within 10 working days after receipt of all required information and documents.	Only MPF - exempt
(6)	Process applications by employers for withdrawal of MPF exemption certificates	Complete processing of applications within 10 working days after receipt of all required information and documents.	Only MPF - exempt
(7)	Process notifications of changes by trustees/administrators or employers on names and addresses of employers, administrators, designated persons or trustees	Complete processing of notifications within 10 working days after receipt of all required information and documents.	Both MPF - exempt and non MPF - exempt
(8)	Issue Payment Advice to remind employers on periodic fee payment	Issue payment advice 1 month before the periodic fee due date.	Both MPF - exempt and non MPF - exempt
(9)	Issue Official Receipt to acknowledge receipt of periodic fee payment by employers	Issue official receipt within 8 working days after clearance of cheques received.	Both MPF - exempt and non MPF - exempt

Note: Service hour is Monday to Friday from 8:45 am to 1pm and 2pm to 5:45pm.