

24 October 2000

Circular Letter: ORSO/No.1/2000

To: ORSO scheme administrators

Dear Sirs

MPF/ORSO Interface Arrangement – Termination of ORSO Scheme

As you are aware, the MPF system will be launched on 1 December 2000 which is drawing close. In this regard, some employers may choose to terminate their existing ORSO scheme and enrol their employees in an MPF scheme.

Issues to Consider

Termination of an ORSO scheme may take place at any time in accordance with its governing rules. As a responsible scheme administrator, you are reminded to alert the employers to the implications of scheme termination. As an example, if a lot of the scheme members have accrued a large amount of unvested benefits, it may be in their interests to transfer all assets and liabilities to an MPF scheme rather than paying them outright the vested benefits. Furthermore, in order to minimize charges/losses that may be incurred upon termination, particularly with respect to termination cost and guarantee provisions, you may advise the employers to consider freezing the ORSO scheme until the appropriate time when transfer of scheme assets to an MPF scheme is most advantageous.

Treatment of Accrued Rights and Benefits

In the event that the assets and liabilities under the ORSO scheme are to be transferred to an MPF scheme, the outgoing administrator is expected to cooperate fully with the succeeding administrator by effecting a speedy transfer of the scheme assets and to provide the latter with detailed information on membership including the date of joining the employer/scheme, accumulations breakdown, etc. of individual members. Furthermore, the outgoing administrator shall provide the MPF trustee with the information on the benefit provisions to enable the latter to check whether there is any reduction in benefits. If the vested benefits are to be paid in full to each member upon the winding up of the ORSO scheme, the outgoing administrator shall do so as soon as practicable for the benefits of members in order to avoid unnecessary complaints and litigation.

Submission of Annual Returns and Audited Financial Statements

In the event of an ORSO scheme being wound up and upon the transfer of all assets and liabilities from it to an MPF scheme, we consider that it will be in the interests of all parties concerned to require the outgoing administrator to prepare and submit to the Registrar the annual return, audited financial statements and auditor's report (collectively the "relevant documents") in respect of the ORSO scheme covering the period up to the date of termination of the ORSO scheme or transfer of the scheme's assets and liabilities to the succeeding administrator, whichever is the later (the "relevant period"). In this connection, the administrator may file the last set of relevant documents for the ORSO scheme covering the relevant period which does not exceed 18 months.

You will appreciate that the preparation of the relevant documents covering the relevant period serves to ensure the continuity of the scheme audit. This will also obviate the duplication of the auditing efforts for the transitional period as well as safeguard the interests of scheme members.

The time allowed for the outgoing administrator to submit the relevant documents to the Registrar is 6 months after the relevant period. To facilitate the preparation of the relevant documents, the employer of the ORSO scheme shall cause an auditor's statement (i.e. Forms A and B) to be prepared and submitted to the outgoing administrator's auditor for verification of the contributions receivable by the scheme within 4 months after the end of the relevant period.

Revised Termination Notice

Upon termination of an ORSO scheme, the employer and the designated person of the scheme shall, within 14 days of the commencement of the winding up or termination process, give a notice in writing to the Registrar and each member of the scheme notifying them of that fact. We have slightly revised the previously issued Termination Notices so as to accommodate the situation whereby the assets of an ORSO scheme are transferred to an MPF scheme. For ease of administration, we encourage you (as the designated person) and the employer to use the enclosed notices for reporting the termination of the ORSO scheme going forward.

Other Matters

On a separate matter relating to MPF-exempted ORSO schemes, if the employer's contributions have ceased or will cease in the case of defined contribution schemes, or if the members have discontinued or will discontinue to accrue future service benefits in the case of defined benefit schemes, it is of utmost importance that you notify the Mandatory Provident Fund Schemes Authority as soon as practicable. We consider that such situations would be highly unsatisfactory if members' interests were adversely affected and thus would call for our immediate attention.

Yours faithfully,

(Henden Yu)
Executive Director
ORSO Schemes Division

Encl.

Occupational Retirement Schemes Ordinance (Cap. 426)
#Notice of Termination/Winding Up of a Registered Scheme

To : The Registrar of Occupational Retirement Schemes

Registration number : R _____ (_____)

Name of Scheme : _____
_____ (“the Scheme”)

I am/We are the designated person of the Scheme and hereby notify you, in pursuance of section 29(1) of the Occupational Retirement Schemes Ordinance, the commencement of the winding up/termination process of the Scheme.

In connection with the above, I/We would also like to provide you with the following information:

(1) The effective date of termination or winding up of the Scheme : _____;

(2) The reasons/circumstances for termination or winding up: _____
_____;

(3) the Scheme **will be / has been* terminated or wound up in accordance with the terms and rules of the Scheme;

(4) **all members have been informed in writing of the termination or winding up of the Scheme / no member has been informed of the termination or winding up because* _____; and

(5) all the members' vested benefits **will be / have been* paid in full to each member of the Scheme.

or

the rights of the members and the assets of the Scheme corresponding to such rights **will be / have been* transferred to another registered or exempted scheme with scheme name : _____
and registration/exemption number : _____.

or

the rights of the members and the assets of the Scheme corresponding to such rights **will be / have been* transferred to an MPF registered scheme with scheme name : _____
MPF scheme registration number : _____
Business Registration of the employer : _____

Signature and company chop
of the designated person : _____

Name of the designated person : _____

Name of person signing : _____

Title or position : _____

Date : _____

For scheme with more than 1 designated person, each designated person should submit a notice of termination/winding up.

* Delete whichever is inappropriate

Please tick the appropriate box

Occupational Retirement Schemes Ordinance (Cap. 426)
#Notice of Termination/Winding Up of a Registered Scheme

To : The Registrar of Occupational Retirement Schemes

Registration number : R _____ (_____)

Name of Scheme : _____
_____ (“the Scheme”)

I am/We are the representative/relevant employer of the Scheme and hereby notify you, in pursuance of section 29(1) of the Occupational Retirement Schemes Ordinance, the commencement of the winding up/termination process of the Scheme.

In connection with the above, I/We would also like to provide you with the following information:

(1) The effective date of termination or winding up of the Scheme : _____;

(2) The reasons/circumstances for termination or winding up: _____
_____;

(3) the Scheme **will be / has been* terminated or wound up in accordance with the terms and rules of the Scheme;

(4) **all members have been informed in writing of the termination or winding up of the Scheme / no member has been informed of the termination or winding up because* _____; and

(5) all the members’ vested benefits **will be / have been* paid in full to each member of the Scheme.

or

the rights of the members and the assets of the Scheme corresponding to such rights **will be / have been* transferred to another registered or exempted scheme with scheme name : _____
and registration/exemption number : _____.

or

the rights of the members and the assets of the Scheme corresponding to such rights **will be / have been* transferred to an MPF registered scheme with scheme name : _____
MPF scheme registration number : _____
Business Registration of the employer : _____

Signature and company chop
of the **representative/relevant* employer : _____

Name of the **representative/ relevant* employer : _____

Name of person signing : _____

Title or position : _____

Date : _____

Contact person : _____

Telephone number : _____

For group scheme, only the representative employer is required to submit the notice of termination/winding up.

* Delete whichever is inappropriate

Please tick the appropriate box