

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

III.12 Guidelines on Deposit

INTRODUCTION

Section 11(5) of Schedule 1 to the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) defines “deposit” to mean a loan of money that is repayable with or without interest or premium, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it, but does not include a loan of money –

- (a) upon terms referable to the provision of property or services or the giving of security; or
- (b) specified by the Mandatory Provident Fund Schemes Authority (“the Authority”) as not being regarded as a deposit for the purposes of this definition;

and references to placing funds on deposit shall be construed accordingly.

2. Section 6H of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides that the Authority may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

3. The Authority hereby issues guidelines to set out the specifications that it has made for the purposes of section 11(5)(b) of Schedule 1 to the Regulation.

LOAN OF MONEY NOT BEING REGARDED AS “DEPOSIT”

4. For the purposes of section 11(5)(b) of Schedule 1 to the Regulation, the Authority specifies the following loan of money as not being regarded as a “deposit” –

- (a) a loan of money that is a “structured deposit”, or
- (b) a loan of money to any person other than an authorized financial institution or eligible overseas bank.

5. For the purposes of these guidelines,

- (a) a loan of money is a “structured deposit” if –
 - (i) the loan of money may be repaid, or the interest or premium on the loan of money may be paid, in a currency that is different from that in which the loan of money was made; or in the form of any property other than money; or
 - (ii) any amount of the loan of money to be repaid, or the interest or premium on the loan of money to be paid, is determined by reference to –
 - (I) the price or value of a financial product, commodity, currency or property;
 - (II) the level of an index;
 - (III) the fact that a relevant figure –
 - (A) is above, below or equal to a specified level; or
 - (B) is within or outside a specified range;
 - (IV) the difference calculated by subtracting a relevant figure from a specified percentage;
 - (V) the result of a mathematical operation that involves more than one relevant figure; or
 - (VI) the occurrence or non-occurrence of an event in relation to a person other than the person who holds, or the person

that takes, the deposit;

- (b) the term “relevant figure” means –
 - (i) a rate of interest, quoted or published from time to time, that is offered by a person or government on a loan of money that –
 - (I) the person or government makes to, or proposes to make to, another person or government; or
 - (II) the person or government raises from, or proposes to raise from, another person or government;
 - (ii) a rate of interest, quoted or published from time to time, that is offered by a person or government, for entering into a swap contract with another person or government, as the rate of interest at which payments to be made under that contract are to be calculated;
 - (iii) a rate of return, quoted or published from time to time, on an investment of monies made by a person or government; or
 - (iv) a figure, quoted or published from time to time, that represents the result of a mathematical operation that involves more than one rate of interest or return mentioned in paragraph (i), (ii) or (iii).

DEFINITIONS OF TERMS

6. Except where otherwise specified in the Guidelines, the terms common to the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as defined in the Ordinance and the subsidiary legislation. References should be made to the Ordinance and the subsidiary legislation, where necessary.