

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.25 Guidelines on Electronic System for Transmission of Data on Transfer of Accrued Benefits

INTRODUCTION

Section 6KA(1) and section 6KA(2) of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provide that the Mandatory Provident Fund Schemes Authority (“the Authority”) may designate an electronic system that is established and operated by it for use for the purposes of the Ordinance.

2. Pursuant to section 6KA(3) of the Ordinance, an approved trustee who uses, or is required by law to use, a designated electronic system must take any action specified by the Authority as being necessary for ensuring the proper and efficient operation of the system.

3. Section 6KA(4) of the Ordinance provides that the Authority may recover from a person who uses a designated electronic system any fee or charge paid or payable by the Authority to a third party in relation to the operation and administration of the electronic system that is attributable to such use.

4. Section 6KA(5) of the Ordinance provides that the Authority may, if it reasonably considers it necessary to do so, suspend a designated electronic system from being used for the purposes of any provision of the Ordinance in relation to which the electronic system is designated.

5. Section 6KA(7) of the Ordinance provides that the Authority must, as soon as practicable after making a designation under section 6KA(1) of the Ordinance or a suspension under section 6KA(5) of the Ordinance, publish information about the designation or suspension in any manner that the Authority considers appropriate.

6. Section 153(1) of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides that a transferee trustee must, as soon as practicable after being notified of an election made under Part XII of the Regulation, give written notice of the election to the transferor trustee. For that purpose, the transferee trustee must serve the completed form on the transferor trustee.

7. Section 153(1A) of the Regulation provides that for the purposes of section 153(1) of the Regulation, the completed form must be served by the transferee trustee on the transferor trustee in the form of an electronic record to an electronic system designated under section 6KA(1) of the Ordinance for use for the purposes of section 153(1) of the Regulation except where:

- (a) the election is an election made under section 150 or 150A of the Regulation; or
- (b) the specified person of the registered scheme to which the accrued benefits are transferred, and that of the registered scheme from which the accrued benefits are transferred, are the same person.

8. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons and other persons concerned with the Ordinance.

9. The Authority hereby issues guidelines about:
- (a) the designation of an electronic system under sections 6KA(1) and 6KA(2) of the Ordinance for use for the purposes of section 153(1) of the Regulation;
 - (b) the actions to be taken by the approved trustees under section 6KA(3) of the Ordinance;
 - (c) the fees and charges recoverable by the Authority under section 6KA(4) of the Ordinance; and
 - (d) the return of properties to the Authority upon suspension of a designated electronic system under section 6KA(5) of the Ordinance, where applicable.

EFFECTIVE DATE

10. The Guidelines shall become effective on the date of commencement of operation of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2012 (“the Amendment Ordinance 2012”), i.e. 1 November 2012.

DEFINITIONS OF TERMS

11. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.

12. Terms which appear in the Guidelines are defined as follows:
- (a) “*Administrator*” means a person appointed or engaged by the approved trustee of a registered scheme to handle for that trustee:
 - (i) a transfer of accrued benefits of a member of another registered scheme to the scheme in accordance with an

- election made under Part XII of the Regulation; or
- (ii) a transfer of accrued benefits of a member of the scheme from the scheme, whether to another registered scheme or another account within the scheme, in accordance with an election made under Part XII of the Regulation.
- (b) **“Application Technical Specification”** means the document entitled “Application Technical Specification” (Version 2.0 dated 5 June 2012) relating to the ePASS as provided by the Authority to the approved trustee and as reasonably amended from time to time by the Authority.
- (c) **“Authority’s Property”** means all documents, papers, disks, drawings, software, hardware, reports, passes, equipment and property of any sort belonging to the Authority (including but not limited to the hardware, equipment and software referred to in paragraph 16).
- (d) **“Election Data”** means an electronic copy of a Transfer Form together with a set of data relating to the transfer election(s) under the Transfer Form to be submitted by a transferee trustee to the ePASS pursuant to paragraph 20(j).
- (e) **“ePASS”** means an electronic system known as the “Electronic Portability Automation Services System” established and operated by the Authority for use in transmission of data on transfer of accrued benefits in accordance with the Ordinance.
- (f) **“ePASS Business Continuity & Disaster Recovery Plan”** means the document entitled “ePASS Business Continuity & Disaster Recovery Plan” (Version 1.0 dated 10 June 2011) relating to the ePASS as provided by the Authority to the approved trustee and as reasonably amended from time to time by the Authority.

- (g) **“Infrastructure Technical Specification”** means the document entitled “Infrastructure Technical Specification” (Version 1.2 dated 12 April 2011) relating to the ePASS as provided by the Authority to the approved trustee and as reasonably amended from time to time by the Authority.
- (h) **“Reply Data”** means the data purporting to reveal whether the transfer election(s) under a Transfer Form is/are accepted or rejected by the relevant transferor trustee, which data are to be submitted by the transferor trustee to the ePASS pursuant to paragraph 20(1).
- (i) **“System-related Specification Documents”** means the Application Technical Specification, the ePASS Business Continuity & Disaster Recovery Plan and the Infrastructure Technical Specification as provided by the Authority to the approved trustee and as reasonably amended from time to time by the Authority.
- (j) **“Transfer Data”** means (i) the Election Data and/or (ii) the Reply Data.
- (k) **“Transfer Form”** means a completed election form for giving written notice of election for transfer of accrued benefits made under Part XII of the Regulation in respect of a member of a registered scheme.
- (l) **“Trustee”** means, for the purpose of the Guidelines, any approved trustee of a registered scheme who uses, or is required by law to use, the ePASS.

DESIGNATION OF ePASS

13. The Authority has designated the ePASS as an electronic system under sections 6KA(1) and (2) of the Ordinance for use for the purposes of section 153(1) of the Regulation, the designation being effective from the date

of commencement of operation of the Amendment Ordinance 2012, i.e. 1 November 2012. Further, the Authority has considered it more effective and efficient to publish information about the designation of ePASS as the electronic system for use for the purposes of section 153(1) of the Regulation in the form of guidelines and hereby publishes information about the designation of ePASS in these guidelines. Pursuant to section 153(1A) of the Regulation, for the purposes of section 153(1) of the Regulation, the completed form must be served by the transferee trustee on the transferor trustee in the form of an electronic record to ePASS except where the circumstances fall within any of the exceptions prescribed in section 153(1A) of the Regulation.

OPERATION OF ePASS

14. The ePASS will perform the functions as set out below:
 - (a) collect the Election Data from a transferee trustee and deliver the Election Data to a transferor trustee;
 - (b) collect the Reply Data from a transferor trustee and deliver the Reply Data to a transferee trustee;
 - (c) collect the reconciliation data from a transferee trustee and/or a transferor trustee and deliver the reconciliation data to a transferor trustee and /or a transferee trustee; and
 - (d) provide management information to the Trustee on the usage of the ePASS in the form and manner as specified in the System-related Specification Documents.

15. Except during scheduled maintenance periods, the service hours of the ePASS is normally from 9:00 am to 6:00 pm on Monday to Friday excluding public holidays of Hong Kong, or at such revised times as shall be advised by the Authority from time to time with reasonable prior written notice. Beyond the service hours of the ePASS, the ePASS will not perform any of the

functions but the Trustee can still upload and submit the Transfer Data to the ePASS.

16. The Authority may install necessary hardware, equipment and/or software at the Trustee's premises and/or in the Trustee's computer system, or, as directed by the Trustee and agreed by Authority, at the Administrator's premises and/or in the Administrator's computer system. The necessary hardware, equipment and/or software required to be installed are of specifications comparable to commonly used facilities available or developed. Such hardware, equipment and software are properties of the Authority and upon receipt of the Authority's demand at any time, the Trustee should return them within a reasonable period of time and in no event be more than one month (from the date on which the Trustee receives the Authority's demand) to the Authority or such other person as may be directed by the Authority.

17. In the event that the ePASS shall break down, the Authority will as soon as practicable notify the Trustee of the breakdown in accordance with the ePASS Business Continuity & Disaster Recovery Plan and will use its reasonable endeavours to as soon as practicable activate the backup system to the ePASS.

18. Except for the data backup for ePASS that will be kept by the Authority for two weeks for data recovery requested by the Trustee or for business contingency purpose, the ePASS shall not under normal circumstances retain any backup copy of any information or data submitted to or through the ePASS after such information or data has been downloaded from the ePASS by the relevant recipient.

19. The ePASS shall not, except to the limited extent as expressly

provided in the System-related Specification Documents, check, verify, validate or ensure the accuracy, genuineness or logic of any of the Transfer Data and/or other information or data submitted to or through the ePASS (whether authorized or not).

ACTIONS TO BE TAKEN BY TRUSTEES

20. Pursuant to section 6KA(3) of the Ordinance, the Authority has specified the following actions as being necessary for ensuring the proper and efficient operation of ePASS and must be taken by the Trustee who uses, or is required by law to use, ePASS as the designated electronic system for the purposes of section 153(1) of the Regulation, the specification being effective from the date of commencement of operation of the Amendment Ordinance 2012, i.e. 1 November 2012:

- (a) Unless advised otherwise by the Authority in writing, the Trustee should comply at all times with the System-related Specification Documents.
- (b) The Trustee should use its best endeavour to maintain the hardware, equipment and software referred to in paragraph 16 in good condition and protect the same from any unauthorized access or use or any damage.
- (c) The Trustee should use its best endeavour to ensure its continuous connectivity with the ePASS by complying with the Application Technical Specification and Infrastructure Technical Specification documents, and to develop and maintain a business continuity plan for addressing the event of system breakdown on the part of the Trustee that may impact its connectivity with the ePASS.
- (d) The Trustee should notify the Authority in writing not less than one month prior to making any changes to the infrastructures of the Trustee's computer system that will affect the operation of the

ePASS.

- (e) The Trustee should notify the Authority in writing not less than three months prior to the appointment or change in appointment of the Administrator as its agent to perform its duties under the Guidelines.
- (f) The Trustee may only submit or upload the Transfer Data to the ePASS and should not submit or upload to the ePASS any other documents, information or data unless permitted in writing by the Authority.
- (g) The Trustee should as soon as practicable and on a regular basis check and download from the ePASS the Transfer Data, including the relevant exception records, transmitted for its attention.
- (h) The Trustee should consider its own necessary frequency for checking ePASS management information reports.
- (i) The Trustee should consider its own necessary retention policies and procedures for backup files and the records.
- (j) The Trustee, as a transferee trustee, should, unless the circumstances fall within any of the exceptions prescribed in the Ordinance or the Regulation, as soon as practicable after being notified of an election to transfer a member's accrued benefits from one registered scheme to another registered scheme, upload to the ePASS the Election Data according to any specification, standard and format from time to time specified in the System-related Specification Documents.
- (k) The Trustee, as a transferee trustee, should, prior to uploading any Election Data to the ePASS, use its best endeavour to check, verify and ensure that the information on a Transfer Form and the set of data relating to the transfer election(s) under the Transfer Form are accurate and that all relevant supporting documents have been

obtained.

- (l) The Trustee, as a transferor trustee, should as soon as practicable after receipt through the ePASS of the Election Data, determine whether the relevant transfer election(s) made under the Transfer Form should be accepted or rejected and upload such determination to the ePASS for transmission to the transferee trustee according to any specification, standard and format from time to time specified in the System-related Specification Documents.
- (m) The Trustee, as a transferor trustee, should, prior to uploading any Reply Data to the ePASS, use its best endeavour to check, verify and ensure that the data are accurate.

USE OF ePASS BY ADMINISTRATOR AS TRUSTEE'S AGENT

21. If applicable, and with not less than 3 months' prior written notice to the Authority, the Trustee may authorize the Administrator to be its agent, to (a) take the actions required to be taken by the Trustee under the Guidelines on behalf of the Trustee in so far as the relevant registered scheme(s) is/are concerned, and (b) (for the purpose of (a) above) access by means as directed by the Authority and use the ePASS (including submitting and receiving Transfer Data to and from the ePASS). For these purposes, any act or omission of the Administrator should be treated as an act or omission of the Trustee. Where applicable, the Trustee should use reasonable endeavours to procure the Administrator to comply with all requirements, obligations and duties applicable to the Trustee under the Guidelines.

22. Upon the termination of the appointment of the Administrator as the Trustee's agent for the use of the ePASS, the Trustee should, upon request made by the Authority, procure the Administrator to deliver, within a reasonable period of time and in no event be more than one month from the date

of the Trustee's receipt of the Authority's request, to the Authority or such other person as may be directed by the Authority all of the Authority's Property which may be in the Administrator's possession or under its control.

FEES AND CHARGES

23. The fees and charges recoverable by the Authority from the approved trustee under section 6KA(4) of the Ordinance include the TrustNet network communication line charges (including monthly rental service fee and any relocation charge) payable by the Authority to a third party.

24. The Authority will issue invoice(s) to the approved trustee on a monthly basis in respect of the total amount of all fees and charges payable under the Ordinance relating to the operation and administration of the ePASS that is attributable to its use. Upon issuance of the invoice(s) by the Authority, the approved trustee should pay fees and charges payable under section 6KA(4) of the Ordinance.

RETURN OF PROPERTY ON SUSPENSION

25. On the suspension of ePASS from being used for the purposes of section 153(1) of the Regulation pursuant to section 6KA(5) of the Ordinance, upon request made by the Authority with reasonable prior written notice, the Trustee should:

- (a) deliver to the Authority all Authority's Property which may be in the Trustee's and (if applicable) Administrator's possession or under their respective control within a reasonable period of time and in no event be more than one month from the date of the Trustee's receipt of the notice; and
- (b) comply with all reasonable directions and instructions given by the Authority in completing the removal of the Authority's Property.