

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.2 Guidelines on Reports Relating to Payment of Mandatory Contributions

INTRODUCTION

Sections 7A and 7C of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provide for the making of mandatory contributions.

2. Section 122 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides for a mandatory contribution to be paid to the approved trustee of a registered scheme on or before the contribution day. Section 133 of the Regulation requires the trustee to send a written notice to a person who does not pay the mandatory contribution by the contribution day. This includes a person who fails to pay the full amount of the mandatory contribution due to errors in numerical calculation as reflected in the remittance statement submitted to the approved trustee. In that written notice, the trustee has to require the person to pay the mandatory contribution or to rectify the discrepancy in payment before the end of the settlement period which is the 30-day period following the contribution day for the payment of the relevant mandatory contribution. If the person still fails to pay the mandatory contribution or rectify the discrepancy in payment within the settlement period, the trustee is also required under section 135 of the Regulation to give a notice to the Authority reporting on the non-payment or discrepancy in payment of the mandatory contribution.

3. There may be circumstances where an employer frequently makes use of the settlement period to delay payment of mandatory contributions in respect of his employees. In other words, the employer does not pay by the contribution day but only pays within the settlement period. Under such circumstances, the approved trustee of the registered scheme concerned is not required to report to the Authority under section 135 of the Regulation; and the Authority does not have to issue any notice to the employer requiring payment of contribution surcharge to compensate the relevant employees for interest losses as a result of the default contributions.

4. Section 6H of the Ordinance provides that the Authority may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

5. To facilitate the Authority to perform its enforcement duties in relation to default contributions and to closely monitor the situation mentioned in paragraph 3 above, the Authority hereby issues guidelines to approved trustees:

- (a) specifying the format of the notice to be given to the Authority under section 135 of the Regulation; and
- (b) requiring notification to the Authority of the employers who, in respect of mandatory contributions for more than one contribution period, do not pay these mandatory contributions by the relevant contribution days but pay them within the relevant settlement periods.

NOTICE TO BE GIVEN UNDER SECTION 135 OF THE REGULATION

6. The notice to be given to the Authority under section 135 of the Regulation should be in the format set out at Annex.

NOTIFICATION TO THE AUTHORITY

7. In relation to paragraph 5(b) above, the trustee of a registered scheme is required to notify the Authority if a participating employer who, for 4 times in a financial period of the scheme, pays mandatory contributions for his employees within the relevant settlement periods instead of by the relevant contribution days. The notice to the Authority should include the following information:

- (a) name of the employer;
- (b) address, telephone number and facsimile number (if any) of the employer;
- (c) name of the scheme concerned;
- (d) the contribution periods concerned; and
- (e) the amounts of mandatory contributions for each contribution period concerned.

8. The trustee should send the notice to the Authority as soon as practicable on the fourth time in a financial period of the scheme when a participating employer pays mandatory contributions within the relevant settlement periods instead of by the relevant contribution days.