

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

I.5 Guidelines on Application for Approval of Constituent Funds

INTRODUCTION

Section 36 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides that a registered scheme may consist of one or more constituent funds, each with a distinct investment policy so as to provide scheme members with different investment choices. A constituent fund must be approved by the Mandatory Provident Fund Schemes Authority (“the Authority”).

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 relating to the application for approval of constituent funds.

APPLICATION FOR APPROVAL OF CONSTITUENT FUND

The Applicant

4. The applicant seeking approval of a constituent fund (“the Constituent Fund”) must be the same as the applicant for registration of the scheme or the approved trustee of the scheme to which the Constituent Fund attaches.

Prescribed Forms

5. The applicant has to complete the prescribed form (Form CF) as set out in the Annex and submit the necessary documents as specified in the form. The prescribed form can be downloaded from the Authority's website at: www.mpfa.org.hk.

Definitions of Terms

6. 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.

Signing Requirements

7. The signatory parties for the application must be the same as those for the registration of the scheme or the approved trustee of the scheme to which the constituent fund attaches.

Submission of Application

8. Completed application forms and the relevant supporting documents should be submitted in hard copies and sent to:

Mandatory Provident Fund Schemes Authority
Level 16, International Commerce Centre
1 Austin Road West, Kowloon
Hong Kong

Warning

9. If there is any change to the application information or documents after an application has been submitted to the Authority, the applicant should inform the Authority as soon as reasonably practicable. It is an offence under section 43E of the Ordinance if a person, in any document given to the Authority,

makes a statement that he knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

FORM CF

**MANDATORY PROVIDENT FUND SCHEMES ORDINANCE (CAP. 485)
("the Ordinance")**

APPLICATION FOR APPROVAL OF CONSTITUENT FUND

NOTES:

- (1) *The applicant making an application for approval of a constituent fund should refer to the "Guidelines on Application for Approval of Constituent Funds".*
- (2) *All questions must be answered. If any question is not applicable, please write "N.A."*
- (3) *If boxes are provided, please tick whichever is appropriate.*

FOR OFFICIAL USE ONLY

Application no.: _____	Date application received: _____
Fee receipt no.: _____	Subject officer: _____
Date of fee receipt: _____	Input officer: _____
Date of letter of acknowledgement: _____	Verification officer: _____

SECTION I - THE SCHEME

- (1) Name of the scheme to which the Constituent Fund belongs: _____
- (2) Is the scheme a registered scheme? Yes No
- (3) If the answer to (2) is “Yes”, please state the scheme registration no.: _____
- (4) If the answer to (2) is “No”, has an application for registration of the scheme been submitted to the Mandatory Provident Fund Schemes Authority (“the Authority”)? Yes No
- (5) If the answer to (4) is “Yes”, please state the application no. and/or date of submission: _____

SECTION II - THE CONSTITUENT FUND

- (1) Name of the Constituent Fund
- (In English): _____
- (In Chinese): _____
- (2) Statement of investment policy
(Please state the investment policy as prescribed in s.24 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) and specify whether the Constituent Fund will engage in security lending, financial futures and option trading other than hedging.)
- (3) Structure of the Constituent Fund
- (A) Internal portfolio
- (B) Feeder fund
- Name of the underlying pooled investment fund

- (C) Portfolio management fund
 Name of the underlying pooled investment funds
- (4) Portfolio of underlying investments
 (Please provide a brief description of the proposed asset allocation, in percentage terms, by type and by region/country.)
- (5) Fund type (e.g. bond, equity, money market, other) _____
- (6) Specialized fund (complete only if applicable)
- (A) Capital preservation fund
- Is the Constituent Fund a capital preservation fund? Yes No
- (B) Guaranteed fund
- (a) Is the Constituent Fund a guaranteed fund? Yes No
- (b) If the answer to (a) is “Yes”, please state:
- (i) The name of the guarantor
- (ii) The guarantee features
- (7) Is the Constituent Fund unitized? Yes No
- (8) Proposed launch date of the Constituent Fund (DD/MM/YYYY) _____
- (9) Currency denomination _____

- (10) Level of all charges payable by scheme members
- (11) Level/basis of calculation of all charges payable by the Constituent Fund
- (12) Level of performance fee (if any)
- (13) Valuation and dealing frequency (daily/weekly/other) _____
- (14) Pricing method (forward/other) _____
- (15) Minimum initial subscription and minimum subsequent holding (if any)
- (16) List of the constitutive documents (including investment management contract and custodial agreement) of the Constituent Fund and date of execution
- (17) Address where books and records of the Constituent Fund are kept

SECTION III - THE TRUSTEE, CUSTODIAN AND INVESTMENT MANAGER OF THE CONSTITUENT FUND

(1) Particulars

	Name	Name of Ultimate Holding Company	Registration status with SFC* ¹ (if any)
Trustee* ²			
Custodian* ³			
Investment Manager* ⁴			

*¹ Securities and Futures Commission

*² The trustee may be the approved trustee or the person who has applied for approval as approved trustee under section 20 of the Ordinance.

*³ For the purposes of this Form, "custodian", in relation to the assets of a registered scheme, includes:

(a) the person appointed by the approved trustee as a custodian of the scheme assets; and

(b) the approved trustee of the scheme who also acts as a custodian of the scheme assets,

but does not include a sub-custodian.

*⁴ No investment manager is required to be appointed if

(a) the accrued benefits of the constituent fund are invested only in a single approved pooled investment fund, or in a single approved index-tracking collective investment scheme, that is specified in the offering document; or

(b) prior approval has been obtained from the Authority.

(2) Investment manager of the Constituent Fund
(Please complete if there is an investment manager appointed for the Constituent Fund)

(A) Independence of investment manager

(a) Do the investment manager and all of its delegates comply with the independence requirement as stipulated in s.46(1) of the Regulation? Yes No

(b) If the answer to (a) is "No", in respect of the investment manager and the delegates who fail to satisfy the independence requirement of s.46(1) of the Regulation, do they comply with the requirements as stipulated in s.46(2) and s.46(3)(a) & (b) of the Regulation? Yes No

- (c) If the answer to (b) is “Yes”, please provide undertakings in accordance with s.46(3)(c) of the Regulation.

- (B) Please list below the name and registered office address of all delegates appointed by the investment manager:

No.	Name	Address	Registration Status*
1.			A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/>
2.			A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/>
3.			A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/>

* For each of the delegates, please specify under the column of “Registration Status” whether the delegate meets one of the following requirements:

- (a) s.45(3) of the Regulation (put a tick in box A)
 (b) s.45(4)(a) of the Regulation (put a tick in box B)
 (c) s.45(4)(b) of the Regulation (put a tick in box C)
 (d) s.45(4)(c) of the Regulation (put a tick in box D)

SECTION IV - INVESTMENT ACTIVITIES

- (1) Security lending

- (A) Will the Constituent Fund engage in security lending activities? Yes No

- (B) If the answer to (A) is “Yes”, please specify the relevant clauses in the investment management contract which provide the investment manager the power to terminate/suspend security lending arrangements at any time.
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- (C) If the answer to (A) is “Yes” and a custodian has been appointed, please specify the relevant clauses in the custodial agreement which indicate that the trustee has delegated the authority to enter into security lending arrangements to the custodian.
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- (2) Financial futures and option trading
- (A) Will the Constituent Fund engage in financial futures and option trading for purposes other than hedging? Yes No
- (B) If the answer to (A) is “Yes”, please demonstrate that the trustee has the relevant experience in this respect.

SECTION V - MARKETING DOCUMENTS & ADVERTISEMENTS

- (1) Have the marketing documents and advertisements been approved by the SFC? Yes No
- (2) If the answer to (1) is “Yes”, please attach final copies of the marketing documents and advertisements and proof of authorization by the SFC.
- (3) If the answer to (1) is “No”, have the marketing documents and advertisements been submitted to the SFC for approval? Yes No

SECTION VI – DOCUMENTS TO BE ATTACHED

	Documents	Attachment No.
(1)	Copies of constitutive documents (please specify) _____ _____ _____	
(2)	Undertakings in accordance with s.46(3)(c) of the Regulation	
(3)	Final copies of the marketing documents and advertisements	
(4)	Proof of authorization by the SFC in respect of the marketing documents and advertisements	

SECTION VII - DECLARATION

We declare that to the best of our knowledge and belief the information given in this Form is correct and complete. †

We certify that the documents attached to this Form are true and correct copies.

We undertake to notify the Authority of any matter which affects the validity of any information given in support of this application.

After the application is approved, we undertake to notify the Authority of any material changes to, or affecting the completeness or accuracy of, the information provided in this Form as soon as possible.

Name of the applicant:

Signature and company chop (if any):

Name of persons signing:

Title or position of persons signing:

Date:

† **Warning:** Section 43E of the Ordinance makes it an offence punishable with a maximum of 1 year's imprisonment for the first occasion and 2 years' imprisonment on each subsequent occasion for a person who makes a false or misleading statement in a material aspect.

Name and telephone no. of the contact person for the Authority's enquiries in connection with this application -

Name:

Telephone no.:

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

NOTES ON PERSONAL INFORMATION COLLECTION

The Personal Data (Privacy) Ordinance came into force on 20 December 1996. These Notes are prepared to assist you in understanding your rights and obligations in relation to the supply of personal data by you to the Mandatory Provident Fund Schemes Authority (“the Authority”) (which data may relate to yourself or other persons) and the manner in which the Authority may use or deal with such data (in connection with application and other matters). You are strongly advised to read these Notes carefully.

1. The provision of personal data is required pursuant to various provisions of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) and of the regulations and rules made under the Ordinance, including the following:
 - (a) Section 20 of the Ordinance, Part II of the Mandatory Provident Fund Schemes (General) Regulation (“the General Regulation”), and sections 42A, 42B, 42C and 42D of the General Regulation in relation to the application for approval as trustees and the application for approval as controllers of approved trustees;
 - (b) Section 21 of the Ordinance and Part III of the General Regulation in relation to the application for registration of schemes;
 - (c) Section 36 of the General Regulation in relation to the approval of constituent funds;
 - (d) Section 6 of the General Regulation in relation to the approval of pooled investment funds;
 - (e) Section 7AB of the Ordinance in relation to submission of statements;
 - (f) Section 5 of the Ordinance, and sections 5, 14 and 16 of the Mandatory Provident Fund Schemes (Exemption) Regulation (“the Exemption Regulation”) in relation to the application for exemption from MPF requirements;
 - (g) Section 7(3) of Schedule 3 to the Exemption Regulation in relation to the application for appointment of trustees/directors of trustees for MPF exempted ORSO registered schemes;
 - (h) Section 8 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO exempted schemes; and
 - (i) Section 19 of the Exemption Regulation in relation to the application for withdrawal of exemption certificates of ORSO registered schemes.

Provision of such personal data is necessary for the exercise or performance of the functions of the Authority conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder). Failure to supply the requested personal data may result in delay or refusal of the application if it affects the Authority’s ability to assess the applicant’s compliance with the applicable criteria.

2. The personal data supplied by you shall be used by the Authority for the purposes of exercising or performing its functions conferred or imposed by or under the Ordinance (including the regulations and rules made thereunder), including whatever surveillance, investigation, inspection or enforcement action necessary to the discharge of such functions.
3. In the course of exercising or performing its functions, the Authority may, as permitted by law, match, compare, transfer or exchange the data provided by you with data held, or hereafter obtained, for these or any other purposes by the Authority, government bodies, other regulatory authorities, corporations, organizations or individuals in Hong Kong or overseas for the purposes of the Ordinance.
4. Specified data relating to approved trustees, registered schemes and MPF exempted ORSO registered/exempted schemes are kept open for public inspection pursuant to sections 20C, 21B and 5A of the Ordinance respectively.
5. You may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied by you, in the manner and subject to the limitations prescribed therein. All enquiries should be directed to:

Personal Data Privacy Officer
Mandatory Provident Fund Schemes Authority
Level 16, International Commerce Centre
1 Austin Road West, Kowloon
Hong Kong