

Mandatory Provident Fund Schemes (General) (Amendment) Regulation 2012

(Made by the Chief Executive in Council under section 46 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) subject to the approval of the Legislative Council)

1. **Mandatory Provident Fund Schemes (General) Regulation amended**
The Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) is amended as set out in sections 2 to 5.
2. **Section 189 amended (approved trustee to pay levy to administrator of compensation fund)**
Section 189—
Repeal
“The approved”
Substitute
“Subject to section 191A, the approved”.
3. **Section 191 amended (Authority to publish rate of levy and other particulars)**
Section 191(1)(b), after “levy”—
Add
“in accordance with section 189”.
4. **Sections 191A and 191B added**
Part XIV, after section 191—
Add

“191A. Exemption of approved trustee from payment of compensation fund levy

- (1) If a report prepared under section 184(3)(b) for a financial year of the compensation fund shows that the net asset value of the fund exceeds \$1.4 billion as at the end of that financial year, the Authority must by notice (*exemption notice*) published in the Gazette exempt the approved trustee of a registered scheme from paying the levy in accordance with section 189 for—
 - (a) the financial period of the registered scheme beginning on or after a date specified in the exemption notice, which date must not be later than 2 months after publication of the exemption notice in the Gazette; and
 - (b) each subsequent financial period of the registered scheme.
- (2) The exemption notice must be published in the Gazette as soon as practicable after a copy of the report is given to the Authority under section 184(4) or, if the Authority is the administrator, after the report is delivered to the administrator under section 184(3)(c).
- (3) The Authority is not required to grant the exemption under subsection (1) if the Authority has reason to believe that the net asset value of the compensation fund would likely fall below \$1 billion as at or before the end of the next financial year of the fund and has consulted the Financial Secretary on its intention of not granting the exemption.
- (4) An exemption granted under subsection (1) remains in force until it is revoked under section 191B(1).
- (5) If an exemption granted under subsection (1) is in force, the Authority is not required to grant another exemption under that subsection.

(6) An exemption notice is not subsidiary legislation.

191B. Revocation of exemption

- (1) If a report prepared under section 184(3)(b) for a financial year of the compensation fund shows that the net asset value of the fund is below \$1 billion as at the end of that financial year, the Authority must by notice (*revocation notice*) published in the Gazette revoke the exemption granted under section 191A(1).
- (2) The revocation notice must be published in the Gazette as soon as practicable after a copy of the report is given to the Authority under section 184(4) or, if the Authority is the administrator, after the report is delivered to the administrator under section 184(3)(c).
- (3) The Authority is not required to revoke the exemption under subsection (1) if the Authority has reason to believe that the net asset value of the compensation fund would likely exceed \$1.4 billion as at or before the end of the next financial year of the fund and has consulted the Financial Secretary on its intention of not revoking the exemption.
- (4) If the exemption is revoked under subsection (1), the approved trustee of a registered scheme must pay the levy in accordance with section 189 for—
 - (a) the financial period of the registered scheme beginning on or after a date specified in the revocation notice, which date must not be later than 2 months after publication of the revocation notice in the Gazette; and
 - (b) each subsequent financial period of the registered scheme.
- (5) The revocation of the exemption does not revive the obligation to pay any levy not payable under the exemption.

(6) A revocation notice is not subsidiary legislation.”

5. Schedule 1 amended (investment of scheme funds)

- (1) Schedule 1, Chinese text, section 1(1), definition of ~~認購權證~~
 Repeal the full stop
 Substitute a semicolon.
- (2) Schedule 1, Chinese text, section 1(1), definition of ~~緊貼指數集體投資計劃~~
 Repeal the semicolon
 Substitute a full stop.



Clerk to the Executive Council

COUNCIL CHAMBER

8 MAY 2012

Explanatory Note

This Regulation amends the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) (*the principal Regulation*) to provide that—

- (a) the Mandatory Provident Fund Schemes Authority (*the Authority*) must exempt the approved trustee of a registered scheme from paying the compensation fund levy if the auditor's report for a financial year of the fund shows that the net asset value of the fund exceeds \$1.4 billion but the Authority is not required to grant the exemption if it has reason to believe that the net asset value of the fund would likely fall below \$1 billion as at or before the end of the next financial year of the fund and has consulted the Financial Secretary (new section 191A added by section 4); and
 - (b) the Authority must revoke the exemption granted under the new section 191A if the auditor's report for a financial year of the fund shows that net asset value of the fund is below \$1 billion but the Authority is not required to revoke the exemption if it has reason to believe that the net asset value of the fund would likely exceed \$1.4 billion as at or before the end of the next financial year of the fund and has consulted the Financial Secretary (new section 191B added by section 4).
2. The Regulation also contains a few technical amendments to the principal Regulation.