

# Proposed Amendments to the Occupational Retirement Schemes Ordinance (Cap.426)

Financial Services and the Treasury Bureau  
Mandatory Provident Fund Schemes Authority  
4 June 2018

# Occupational Retirement Schemes

(proposed amendments - as highlighted in red below)

	<u>Registered schemes</u>	<u>Exempted schemes</u> [ offshore schemes registered / approved overseas or schemes cover mainly non-local employees ]
<b>Major application requirements</b>	<ul style="list-style-type: none"> <li>• employer's statement (cover compliance with employment-based criterion "employment-based criterion")</li> <li>• solicitor's statement (employment-based criterion)</li> <li>• auditor's statement (employment-based criterion)</li> <li>• (actuarial certificate)</li> <li>• provide information to MPFA</li> </ul>	<ul style="list-style-type: none"> <li>• provide information to MPFA</li> <li>• <b><u>NO</u> exemption</b></li> </ul>
<b>Major compliance requirements</b>	<ul style="list-style-type: none"> <li>• <b>employer's annual statement (employment-based criterion)</b></li> <li>• handling of assets</li> <li>• trusteeship</li> <li>• investment</li> <li>• adequacy of funding</li> <li>• annual return, audit report &amp; (actuarial certificate)</li> <li>• disclosure</li> <li>• notify MPFA of any changes related to the scheme</li> <li>• provide information to MPFA</li> </ul>	<ul style="list-style-type: none"> <li>• <b>employer's annual statement (employment-based criterion)</b></li> <li>• <b>annual return</b></li> <li>• notify MPFA of any changes related to the scheme</li> <li>• provide information to MPFA</li> </ul>

# Employment-based Criterion

## Scheme membership:

- Employees (past or present) of the relevant employer of an ORSO scheme
- Individuals transferred from one ORSO scheme to another ORSO scheme upon bona fide business transactions between the relevant employers of two ORSO schemes
- Beneficiaries of deceased members

# Overview of Proposed Amendments

1. No new applications for exemption
2. Ongoing compliance with “employment-based criterion” -
  - registered schemes and existing exempted schemes (submission of employer’s annual statement)
  - new applications for registration (submission of employer’s, solicitor’s and auditor’s statements)

# Overview of Proposed Amendments (con't)

- ensure only bona fide transfer-in payments  
(sourced from past employment relationship  
between scheme member and employer of  
transferring scheme)
- express statutory powers to cancel registration  
/ withdraw exemption certificates on ground of  
non-compliance with “employment-based  
criterion”

# Overview of Proposed Amendments (con't)

3. Inspection, investigation and enforcement powers
4. May apply for court order to freeze assets once the Registrar intends to cancel registration of a scheme
5. Other technical amendments -
  - use other means instead of newspaper to publish matters concerning registration cancellation / exemption withdrawal
  - duties of trustees
  - textual amendments

# Implementation Timetable

Time frame	Tasks
June 2018	Consultation with LegCo Panel on Financial Affairs
2018-19 legislative year	Introduction of the amendment bill into LegCo

# Q&As