

Occupational Retirement Schemes (Amendment) Bill 2019 gazetted

The Government published the Occupational Retirement Schemes (Amendment) Bill 2019 (the Amendment Bill) in the Gazette today (April 4). The Amendment Bill seeks to update the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO) to prevent the misuse of Occupational Retirement Schemes (ORSO schemes) as an investment vehicle open to persons who are not employees of the relevant employers of the schemes.

Specifically, the Amendment Bill will:

- (a) enhance the powers of the Registrar, i.e. the Mandatory Provident Fund Schemes Authority (MPFA), to ensure that schemes regulated under the ORSO are genuinely employment-based retirement schemes; and
- (b) improve the governance of ORSO schemes.

"The regulatory regime of ORSO schemes is not designed for schemes which are open for non-employee participation. Allowing such misuse of ORSO schemes would compromise the integrity of the regulation of investment products in Hong Kong. We therefore propose amending the ORSO to better reflect the original policy intent that only employment-based schemes should fall into the ambit of the ORSO," a spokesman for the Financial Services and the Treasury Bureau said.

The Amendment Bill also proposes to improve the governance of ORSO schemes by enhancing the Registrar's regulatory powers and abolishing the current criterion for accepting new ORSO exemption applications for schemes that have not more than 10 per cent or 50 of the scheme's members, whichever is less, who are Hong Kong permanent identity card holders. Under the new proposal, prospective scheme employers will still be able to apply for exemption if the scheme is registered or approved by certain regulatory authorities outside Hong Kong.

"The stepping up of the regulatory requirements is essential for scheme member protection. It helps improve the ORSO regulatory regime in achieving the policy objective to ensure that ORSO scheme benefits will be paid when they fall due. In formulating the proposals, we have taken into consideration the views of various stakeholders, including employer groups. The Government will work closely with the MPFA in order to facilitate the industry's compliance with the new regulatory requirements," the spokesman added.

The Amendment Bill will be introduced into the Legislative Council for first reading on April 17.