

LAW & POLICY GROUP

GRIST**HONG KONG PROPOSES AMENDMENTS TO
'ORSO' RETIREMENT SCHEMES**

*By Mercer's Charles Leung, Mandy Chan and Fiona Webster
29 May 2019*

Proposed amendments to Hong Kong's Occupational Retirement Schemes Ordinance (ORSO) aim to prevent abuse of ORSO schemes as an investment vehicle by individuals who aren't employees of the relevant ORSO schemes. The proposals feature in a bill — [the Occupational Retirement Schemes \(Amendment\) Bill 2019](#) — that is under discussion in the Legislative Council. ORSO retirement schemes are set up voluntarily by employers to provide retirement benefits for their employees — the scheme's governing rules are drawn up by the individual employer.

HIGHLIGHTS OF THE PROPOSALS

- All ORSO schemes would have to be “employment-based”:
 - Eligibility for membership in an ORSO scheme would be restricted to an individual's past or present employment with the relevant employer of the scheme, or employees of a former employer who have transferred to the ORSO scheme. Employers would have to submit to the Mandatory Provident Fund Authority (MPFA) — the ORSO Registrar — an annual written statement confirming that the scheme has satisfied the employment-based criterion throughout the year.
 - ORSO exemption certificates would be granted only to offshore schemes that are registered or approved by regulatory authorities outside of Hong Kong that have powers analogous to the MPFA.
 - The current requirement that no more than 10% or 50 members of offshore ORSO-exempted schemes hold a permanent Hong Kong identity card would be abolished.
- Specified criteria would have to be fulfilled before benefits could be transferred to a registered or exempted ORSO scheme. For example, benefits would have to be held by the same member before and after the transfer.
- Employers or administrators of ORSO schemes would have to notify the registrar in writing within seven working days of any “reportable events,” such as noncompliance with ORSO requirements.

- The ORSO registrar would have increased powers, such as on-site inspections and investigation of noncompliance. New sanctions would be introduced.

RELATED RESOURCES

- [The Occupational Retirement Schemes \(Amendment\) Bill 2019](#) (Government of Hong Kong Special Administrative Region, 4 Apr 2019)
- [Circular Letter: PR/COT/2019/001](#) (Mandatory Provident Fund Schemes Authority, 8 Apr 2019)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.