

**立法會**  
*Legislative Council*

LC Paper No. CB(1)813/01-02  
(These minutes have been  
seen by the Administration)

Ref: CB1/BC/10/00/2

**Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2001**

**Meeting on  
Friday, 4 January 2002, at 10:45 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon NG Leung-sing, JP  
Hon LEE Cheuk-yan  
Hon CHAN Yuen-han, JP  
Hon Bernard CHAN  
Hon CHAN Kam-lam  
Hon SIN Chung-kai  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon LEUNG Fu-wah, MH, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent** : Hon James TIEN Pei-chun, GBS, JP  
Dr Hon David CHU Yu-lin, JP  
Hon Eric LI Ka-cheung, JP  
Hon Margaret NG

**Public officers  
attending** : Miss Susie HO  
Deputy Secretary for Financial Services

Mr Raymond TAM  
Executive Director (Policy and Development  
Division), Mandatory Provident Fund Schemes  
Authority

Mr Geoffrey FOX  
Senior Assistant Law Draftsman

Ms Lonnie NG  
Senior Government Counsel

**Clerk in attendance** : Miss Polly YEUNG  
Chief Assistant Secretary (1)3

**Staff in attendance** : Miss Connie FUNG  
Assistant Legal Adviser 3

Miss Yvonne YU  
Senior Assistant Secretary (1)4

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**I Confirmation of minutes of meeting**

(LC Paper No. CB(1)674/01-02 - Minutes of meeting held on 10 December 2001)

The minutes of meeting held on 10 December 2001 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(1)686/01-02(01) - The Administration's response to issues arising from the Bills Committee meeting on 10.12.2001

LC Paper No. CB(1)686/01-01(02) - Draft Committee Stage Amendments (CSAs) to the Mandatory Provident Fund Schemes (Amendment) Bill 2001

LC Paper No. CB(1)708/01-02(01) - A marked-up table prepared by the Legal Service Division setting out the relevant existing provisions of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), amendments proposed by the Mandatory Provident Fund Schemes (Amendment) Bill 2001 and CSAs proposed by the Administration to relevant provisions in the Bill

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration undertook to take the following actions to facilitate the work of the Committee, and agreed to consider other concerns raised at the meeting:

Proposed section 6QA of the Mandatory Provident Fund Schemes Ordinance (MPFSO)

- (a) Members disagreed with the Administration's stance that the scope of borrowing of the Mandatory Provident Fund Schemes Authority (MPFA) should not be restricted to overdraft only. As MPFA had already been given a capital of \$5 billion upon its inception to cater for its working capital needs, they queried the need to empower MPFA to borrow money for purposes which had not been specified in the legislation. They did not fully subscribe to the Administration's explanation that other statutory bodies also had similar powers as these bodies might not have been granted a start-up capital as in the case of MPFA.
- (b) Members were concerned that MPFA might make use of the provision to participate in high-risk speculative activities, and therefore suggested that the proposed powers should be circumscribed, such as by limiting the duration and nature of banking facilities to temporary/short-term "bridging facilities". The Administration agreed to consider members' suggestions to review the drafting of this provision to the effect that such power would be restricted to obtaining temporary or short term banking facilities to provide for unforeseeable circumstances, and not for long term needs.

CSA to proposed section 2(1) of MPFSO

- (c) On the drafting aspect, Hon Audrey EU commented that the definition of "company" was too complicated. She asked whether it was feasible to streamline the definition of "company" to the effect that the definition of "an overseas company" (namely, "a company to which Part XI of the Companies Ordinance (Cap. 32) applies") would be included under the definition of "company". As such, no separate definition for "overseas company" would be required. As suggested by the Chairman, the Administration would study the matter with Hon Audrey EU after the meeting.

Other concerns

- (d) During the discussion of the proposed section 7C(6)(b) of MPFSO, Hon CHAN Yuen-han was concerned that as a result of the economic downturn, there was concern in the community as to whether the statutory retirement age of 65 for self-employed persons was still appropriate. In response to her call for review, the Administration said that the matter would be examined in a separate context.
- (e) During the discussion of the CSA to proposed section 78 of the Mandatory

Provident Fund Schemes (General) Regulation (the Regulation), Hon CHAN Kam-lam was concerned that under the existing statutory requirements, each scheme member would have many accounts, especially when the scheme member changed jobs frequently. In the long term, he requested the Administration to examine the feasibility of consolidating separate accounts for each scheme member upon changes in employment. The Chairman suggested that the issue could be raised at the LegCo Panel on Financial Affairs, if members so wished.

4. The Chairman asked and members present at the meeting did not indicate that they would propose any CSAs to the Bill at this stage.

5. The Committee agreed to wait for the Administration's written response to the issues raised at the meeting before deciding whether it was necessary to hold another meeting to continue discussion with the Administration.

### **III Any other business**

6. There being no other business, the meeting ended at 12:00 noon.

Legislative Council Secretariat  
15 January 2002

**Proceedings of the meeting of the Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2001**

**on Friday, 4 January 2002, at 10:45 am  
in Conference Room A of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Confirmation of minutes of meeting</i>			
000112-000233	Chairman	Confirmation of minutes of meeting held on 10 December 2001; Opening remarks	
<i>Agenda Item II - Meeting with the Administration</i>			
000234-000359	Chairman	<u>LC Paper No. CB(1)686/01-02(01)</u> Clause 2(ii) - The Administration's proposal on amending the definition of "company", and whether the term "corporation" was defined in the Companies Ordinance	
000400-000449	Ms Audrey EU	Request for further clarification on the rationale for the proposed amendment to the definition of "company"	
000450-000507	Chairman	- ditto -	
000508-000823	MPFA	- ditto -	
000824-000836	Ms Audrey EU	- ditto -	
000837-000847	Chairman	Request for clarification from ALA3 on the definition of "company"	
000848-001043	ALA3	- ditto -	
001044-001106	Ms Audrey EU	- ditto -	
001107-001200	Chairman	Clauses 5, 7(b) and 19 - The Administration's proposal of adding the "beginning of" before "the date", and whether it would have implications on other financial related ordinances	
001201-001239	Chairman	Clause 4 - Mandatory Provident Fund Schemes Authority (MPFA)'s power to borrow	
001240-001305	Chairman	Clauses 10(d) and 11(d) - The Administration's proposal to limit MPFA's power to impose/amend conditions on marketing of the scheme to ambit of the guidelines issued by	

Time	Speaker	Subject(s)	Action required
		MPFA	
001306-001325	Chairman	Composition and power of the Mandatory Provident Fund Schemes Appeal Board	
001326-001424	Mr SIN Chung-kai	Clause 4 - he disagreed with the Administration's stance that the scope of the borrowing power of MPFA should not be restricted to overdraft only as MPFA had already been given a capital of \$5 billion upon its inception	
001425-001527	Admin	- ditto -	
001528-001558	Mr SIN Chung-kai	- ditto -	
001559-001829	MPFA	- ditto -	
001830-001946	Mr NG Leung-sing	Clause 4 - he proposed to limit the duration of the banking facilities to a temporary/short-term nature to restrict MPFA's power to borrow	
001947-002045	Admin	- ditto -	
002046-002120	Mr NG Leung-sing	- ditto -	
002121-002143	Admin	To review the drafting of this provision to the effect that such power would be restricted to obtaining temporary or short term banking facilities to provide for unforeseeable circumstances, and not for long term needs	Admin
002144-002230	Miss CHAN Yuen-han	Clause 4 - she considered that the need to provide for unforeseeable circumstances should have been catered for in the \$5 billion working capital fund	
002231-002438	MPFA	- ditto -	
002439-002522	Miss CHAN Yuen-han	- ditto -	
002523-002633	MPFA	- ditto -	
002634-002655	Chairman	- ditto -	
002656-002705	Miss CHAN Yuen-han	- ditto -	
002706-002735	MPFA	Clause 4 - there was an operational need for MPFA to engage in borrowing activities to tide over unforeseen circumstances	
002736-003013	Mr CHAN Kam-lam	Clause 4 - he was concerned that MPFA might make use of this provision to participate in the high-	

Time	Speaker	Subject(s)	Action required
		risk speculative activities and considered that there must be clear restriction on the power	
003013-003202	Admin	- ditto -	
003203-003224	Mr CHAN Kam-lam	Clause 4 - the scope of the power to borrow	
003225-003313	Admin	- ditto -	
003314-003434	Mr SIN Chung-kai	Clause 4 - he proposed to add wordings such as "bridging facilities" in the provision	
003435-003440	Admin	To review the drafting of this provision to see if arrangements such as "bridging facilities" could be included	Admin
003444-003528	CHAN Yuen-han	Clause 4 - she asked whether the proposed amendment was a result of the Asian financial crisis	
003529-003635	MPFA	- ditto -	
003636-003650	Chairman	Members noted the information on the composition and power of the Mandatory Provident Fund Schemes Appeal Board	
003651-003704	Chairman	<u>LC Paper No. CB(1)686/01-02(02)</u> Opening remarks for Draft Committee Stage Amendments (CSAs) to the Mandatory Provident Fund Schemes (Amendment) Bill 2001 proposed by the Administration	
003705-003733	Ms Audrey EU	Clauses 10(d) and 11(d) – the ambit of the guidelines within which MPFA would impose/amend conditions on marketing of the schemes	
003734-003837	MPFA	- ditto -	
003838-003919	Ms Audrey EU	- ditto -	
003920-003954	MPFA	- ditto -	
003955-004003	Ms Audrey EU/ MPFA	- ditto -	
004004-004042	Chairman	<u>LC Paper No. CB(1)708/01-02(01)</u> Opening remarks for marked-up table prepared by the Legal Service Division setting out the relevant existing provisions of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), amendments proposed by	

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		the Mandatory Provident Fund Schemes (Amendment) Bill 2001 and CSAs proposed by the Administration to relevant provisions in the Bill	
004043-004100	Chairman	<u>Examination of Chinese version of the CSAs proposed by the Administration</u> CSA to proposed section 2 of MPFSO – interpretation	
004101-004154	Ms Audrey EU	Feasibility of streamlining the definition of “company” to include the definition of “oversea company” so that a separate definition for “oversea company” would not be required	
004155-004205	Admin	- ditto -	
004206-004243	Ms Audrey EU	- ditto -	
004244-004304	Admin	- ditto -	
004305-004347	MPFA	- ditto -	
004348-004438	Admin	- ditto -	
004439-004446	Chairman	- ditto -	
004447-004459	Ms Audrey EU	- ditto -	
004500-004521	Chairman	The Administration to discuss this drafting matter with Ms Audrey EU	Admin
004522-004600	Chairman	CSA to proposed section 2(1) of MPFSO - interpretation	
004601-004609	Chairman	CSA to proposed section 2(3) of MPFSO	
004610-004640	Mr LEE Chunk-yan	The element of contingency in the CSA	
004641-004803	MPFA	- ditto -	
004804-004809	Chairman	- ditto -	
004810-004822	Chairman	CSA to section 4 of MPFSO – exemptions	
004823-004837	Chairman	CSA to proposed section 7C of MPFSO – duty of self-employed person to become scheme member	
004838-004858	Chairman	CSA to proposed section 11 of MPFSO – voluntary contributions	
004859-004909	Chairman	CSA to proposed section 20 of MPFSO – approval of trustees	
004910-004929	Mr SIN Chung-kai	- ditto -	
004930-005131	MPFA/ Mr SIN Chung-kai	- ditto -	
005132-005202	Admin	- ditto -	
005203-005305	Miss CHAN Yuen-han	Proposed section 7C(6)(b) of MPFSO	



<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		relating to the retirement age of self-employed persons	
005306-005348	MPFA/ Miss CHAN Yuen-han	- ditto -	
005349-005423	Miss CHAN Yuen-han	- ditto -	
005424-005455	Admin	- ditto -	
005456-005508	Miss CHAN Yuen-han	- ditto -	
005509-005557	MPFA	- ditto -	
005558-005626	Miss CHAN Yuen-han	She requested the Administration to review the statutory retirement age of self-employed persons	
005627-005630	Chairman/Admin	The Administration would look into this policy issue in a separate context	Admin
005631-005646	Chairman	CSA to proposed section 21 of MPFSO – application for registration as employer sponsored scheme or master trust scheme	
005647-005719	Mr CHAN Kam-lam	CSA to proposed section 20(12) of MPFSO – substitution of “7 working days’ advance notice” with “30 working days’ advance notice”	
005720-005748	Admin	- ditto -	
005749-005753	Mr CHAN Kam-lam	- ditto -	
005754-005818	MPFA	- ditto -	
005819-005836	Chairman	CSA to proposed section 21 of MPFSO – application for registration as employer sponsored scheme or master trust scheme	
005837-005859	Chairman	CSA to proposed section 21A of MPFSO – applications for registration of schemes as industry schemes	
005900-005912	Chairman	CSA to proposed section 43A of MPFSO – offences by approved trustees	
005913-005926	Chairman	CSA to proposed section 2 of the Regulation – interpretation of “offering document” and “participation agreement”	
005927-005942	Chairman	CSA to proposed section 6 of the Regulation – what is an approved pooled investment fund for the purposes of this Regulation?	
005943-005952	Chairman	CSA to proposed section 63 of the Regulation – amendments to	

Time	Speaker	Subject(s)	Action required
		governing rules of registered scheme not to take effect without Authority's approval	
005953-010007	Chairman	CSA to proposed section 63A of the Regulation – amendments to offering documents require Authority's approval	
010008-010037	Chairman	CSA to proposed section 78 of the Regulation – separate account for each scheme member	
010038-010044	Chairman	CSA to proposed section 203 of the Regulation – circumstances in which persons are exempted from operation of the Ordinances	
010045-010100	Chairman	CSA to proposed schedule 4 to the Regulation – financial penalties	
010101-010104	Chairman	Invited comments from ALA3 on the draft Chinese version of CSAs	
010105-010107	ALA3	Confirmed that the draft Chinese version of CSAs were in order	
010108-010156	Chairman	<u>Examination of English version of the CSAs proposed by the Administration</u> CSA to proposed section 2 of MPFSO - interpretation	
010157-010200	Chairman	CSA to section 4 of MPFSO - exemptions	
010201-010212	Chairman	CSA to proposed section 7C of MPFSO – duty of self-employed person to become scheme member	
010213-010225	Chairman	CSA to proposed section 11 of MPFSO – voluntary contributions	
010226-010236	Chairman	CSA to proposed section 20 of MPFSO – approval of trustees	
010237-010258	Chairman	CSA to proposed section 21 of MPFSO – application for registration as employer sponsored scheme or master trust scheme	
010259-010319	Chairman	CSA to proposed section 21A of MPFSO – applications for registration of schemes as industry schemes	
010320-010326	Chairman	CSA to proposed section 43A of MPFSO – offences by approved trustees	

Time	Speaker	Subject(s)	Action required
010327-010336	Chairman	CSA to proposed section 2 of the Regulation – interpretation of “offering document” and “participation agreement”	
010337-010342	Chairman	CSA to proposed section 6 of the Regulation – what is an approved pooled investment fund for the purposes of this Regulation?	
010343-010346	Chairman	CSA to proposed section 63 of the Regulation – amendments to governing rules of registered scheme not to take effect without Authority’s approval	
010347-010350	Chairman	CSA to proposed section 63A of the Regulation – amendments to offering documents require Authority’s approval	
010351-010405	Chairman	CSA to proposed section 78 of the Regulation – separate account for each scheme member	
010406-010407	Chairman	CSA to proposed section 203 of the Regulation – circumstances in which persons were exempted from operation of the Ordinance	
010408-010411	Chairman	CSA to proposed schedule 4 to the Regulation – financial penalties	
010412-010415	Chairman	Invited comments from ALA3 on the draft English version of CSAs	
010416-010419	ALA3	Confirmed that the draft English version of CSAs were in order	
010420-010433	Chairman/members	In response to the Chairman’s question, members present at the meeting did not indicate that they would propose any CSAs to the Bill	
010434-010546	Chairman/Admin	<ul style="list-style-type: none"> <li>- The Administration would provide a written response to issues raised at this meeting for members’ consideration</li> <li>- Members noted the Administration’s intention to resume Second Reading debate in end January/early February 2002</li> <li>- The Committee would decide whether to hold a further meeting</li> </ul>	Admin

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		upon receipt of the Administration's response	
010547-010700	Mr CHAN Kam-lam	Feasibility of consolidating separate accounts for each scheme member upon changes in employment	
010701-010808	MPFA	- ditto -	
010809-010933	Mr CHAN Kam-lam	- ditto -	
010934-010937	Chairman	- ditto -	
010938-011239	MPFA	- ditto -	
011240-011303	Chairman	He suggested that the issue could be raised at the LegCo Panel on Financial Services if members so wished	

**Note: The audio records of the above proceedings are kept at the LegCo Library**

Legislative Council Secretariat  
15 January 2002