

LegCo Panel on Manpower
(Meeting to be held on 15 February 2001)

**Implementation of the Mandatory Provident Fund System –
Follow-up Issues**

Purpose

This paper updates Members on the progress of implementing the Mandatory Provident Fund (MPF) System, which commenced on 1 December 2000.

Enrolment

2. There had been a significant increase in the enrolment of employers and self-employed persons (SEPs) shortly before the commencement date of 1 December 2000, and the growth in enrolment rate was sustained until early January 2001. The Mandatory Provident Fund Schemes Authority (MPFA) has taken steps to ensure that the MPF trustees process the applications and handle the influx of large number of enquiries from employers and scheme members effectively. MPFA has also strengthened the service of its Call Center in order to handle public enquiries which increased considerably in the same period. A few MPF trustees had experienced difficulties initially but most applications were cleared before the end of the “Permitted Period” on 29 January 2001.

3. At the end of January 2001, over 70% of the employers, 80% of the relevant employees and 90% of the SEPs who are covered by the MPF System have joined MPF schemes. With regard to the Industry Schemes, over 8 100 employers, 97 000 employees and 17 000 SEPs have been enrolled.

4. Together with the employees who are already covered by existing occupational retirement schemes or statutory pension plans (e.g. those for civil servants and teachers), it is estimated that about 80% of the workforce in Hong Kong is now covered by some form of retirement protection schemes. MPFA will continue with its publicity education and enforcement efforts to ensure that the remaining 20% of the relevant employees and 10% of SEPs are ultimately covered by the MPF system.

Enforcement

5. Enforcement action comprises proactive inspections, i.e. surprise checks on selected employers and targeted investigations which are complaint-driven. The sources of complaints include those received by the MPFA direct, via the media, other government departments, and through the unions.

6. MPFA will identify companies which have not enrolled their employees in MPF schemes, and carry out enforcement action to ensure compliance with MPF legislation. The targets are small to medium sized enterprises, part-time employees, SEPs as well as casual employees in the catering and construction industries.

The Industry Scheme

7. The enrolment rates of the construction and the catering industries remain unsatisfactory. This is partly because there are fewer casual employees in the catering and construction industries than originally estimated. Besides, many employers in these two industries have joined Master Trust Schemes instead.

8. In the construction industry, owing to the frequent interchange of status of some workers as employer, employee or SEP, and the mobile nature of construction workers, the implementation of the Industry Scheme so far has been more difficult. The enforcement difficulties will be reduced substantially if this industry is restructured along the lines as recommended by the Construction Industry Review

Committee. In the meantime, MPFA will continue to deter non-compliance by both proactive inspections and investigations; it will also cooperate with labour unions and relevant associations to promote compliance with the law.

Complaints

9. Up to the end of January 2001, 239 complaints have been received by MPFA as follows:

(A) Complaints concerning employer-employee relations	%
➤ Reduction of salaries	27
➤ Involuntary change from employee to SEP	12
➤ Non-enrolment	15
➤ Default contribution	3
➤ Others (e.g. dismissal)	10
(B) Others (including services of trustees and intermediaries, ORSO schemes, and about the MPF legislation)	33
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Total	100
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10. One of the difficulties encountered in investigating these complaints is that about one-fifth of the complainants were anonymous. For those cases which were found substantiated, prosecution will be initiated.

11. A channel for referral of labour-related complaint cases has been set up between MPFA and the Labour Department(LD) (details of complaints received by LD is at Annex). With the consent of complainants concerned, information may be exchanged between the two bodies to facilitate enforcement as to whether labour-related offences might have been committed in addition to MPF offences. As at end of January 2001, the MPFA has referred 7 labour-related complaint cases to the LD for investigation and the LD has also referred 7 complaints to the MPFA on cases relating

to MPF issues. Both the MPFA and the LD would actively investigate into complaints received and endeavour to combat employers' malpractice and to safeguard employees' rights through vigorous publicity and joint inspections.

Public Education and Publicity

12. MPFA's public education and publicity programme will be sustained. For 2001, a major area to be covered in the programme is investment education. The channels for promoting MPF include radio programmes, roving exhibition in MTR stations, information leaflets, internet advertisement and quiz, and MPF enquiry counters at District Offices.

Conclusion

13. Members are requested to note the contents of this paper. MPFA will continue to closely monitor and ensure the effective implementation of the MPF system.

Mandatory Provident Fund Schemes Authority

February 2001

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The Implementation of the MPF System - Follow-up Issues

Complaints received by the Labour Department (LD)

From January 2000 to January 2001, the LD handled a total of 19 complaints about variation of employment terms or dismissal due to the implementation of the MPF. 11 were received after the commencement of the MPF System on 1 December 2000. Among the 19 cases, seven were concerned with dismissal allegedly due to MPF, six were concerned with reduction of wages or other employment benefits, three were concerned with the proposed replacement of existing occupational retirement schemes by MPF schemes, two were related to wrongful deduction of MPF contribution from termination payment, and the remaining complaint was related to the replacement of employment contract by contract for service.

As for the results, seven cases have been resolved after conciliation or upon giving advice to the parties concerned. Another seven cases have been referred to the Labour Tribunal (LT)/ Minor Employment Claims Adjudication Board (MECAB) for adjudication of the dispute on facts. The remaining five cases received in January 2001 are under follow-up (including two cases for which conciliation meetings have been scheduled, two cases awaiting the employees' decision on whether or not to lodge claim for conciliation, and one case upon conciliation, was awaiting the employee's decision on whether or not to further pursue the case at the MECAB).

In addition, the Hong Kong Confederation of Trade Unions (CTU) has referred a total of 32 cases in two batches on 27 November 2000 and 7 December 2000 to the LD for investigation. These cases were mainly concerned with allegations on reduction of wages or employment benefits and forcing employees to change into self-employed persons due to MPF. LD has coordinated with the MPFA in handling these cases. Investigation showed that majority of the employers either denied the allegations or alleged that prior consent from the employees had been obtained for the variation of wages or employment terms. There were also cases which were non-pursuable due to inadequate employer's information. The CTU has been informed of these results and it has been requested to provide further information about the complainants or the employers to facilitate investigation.