

LegCo Panel on Manpower

Implementation of the Mandatory Provident Fund System Progress report as at the end of August 2001

Purpose

This paper updates Members on the progress of implementing the Mandatory Provident Fund (“MPF”) System.

Enrolment

2. As at the end of August 2001, the enrolment rates for employers, employees and self-employed persons (“SEPs”) were 87.6%, 94.2% and 90.6% respectively. With regard to the Industry Schemes, about 11 600 employers, 178 000 employees and 23 800 SEPs have participated.

Complaint Handling

Complaints received by MPFA

3. Of the total of 4 955 complaints received from 1 December 2000 to the end of August 2001, 853 were received in August 2001. The breakdown of all the complaints received is as follows:

<u>Nature</u>	<u>% *</u>
(A) Complaints concerning scheme members:	
➤ Wrongful reduction of wages / benefits	8
➤ Involuntary change from employee to SEP	2
➤ Non-enrolment in MPF Schemes	18
➤ Default contribution	58
➤ Others (e.g. dismissal; no pay records)	12
(B) Complaints against trustees, intermediaries, ORSO etc	24

* The sum of the % exceeds 100% because multiple selection of complaint category is allowed.

4. Complaints on default contributions increased by more than 50% between July and August 2001 although the total number of complaint cases remains stable in absolute terms. The complaints received also show a gradual shift from non-enrolment to default contribution. This is as expected. The design of the MPF System has envisaged that there will always be a certain proportion of defaults for various reasons, and a mechanism to deter such defaults instituted. With regard to complaints against trustees, the number of cases received continues to decrease as the operation of most of the trustees continues to run in.

Complaints Received by the Labour Department (“LD”)

5. From 1 December 2000 to 31 August 2001, the LD received 64 MPF-related complaints. The breakdown is as follows:

<u>Nature</u>	<u>%</u>
➤ Wrongful deduction of wages or other employment benefits	56
➤ Dismissal allegedly due to MPF	17
➤ Variation of wages or other employment benefits	16
➤ Employee forced to change into self-employed person	6
➤ Wrongful deduction of MPF contribution from termination payment	5
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Total :	<u>100%</u>

6. Of these, 35 cases were resolved after conciliation or advice given, 15 were referred to the Labour Tribunal/Minor Employment Claims Adjudication Board for adjudication (9 of the cases have since been concluded), 1 case where the employer was insolvent was referred to the Legal Aid Department and the Protection of Wages on Insolvency Fund, 3 cases where the employees had lodged claims were awaiting conciliation, 3 cases were awaiting the employees’ decision on whether to lodge claim for conciliation, 3 cases were awaiting the employees’ decision on whether to lodge claim at the Labour Tribunal/ Minor Employment Claims Adjudication Board after conciliation, and 4 cases were under investigation.

Enforcement

Summonses and trials

7. Up to the end of August 2001, applications for 122 summonses involving 41 employers have been made to the Police. Most of the suspected

offences were about non-enrolment of employees and default contribution. So far, pleas from 18 employers (involving 32 summonses) have been taken. The fines ranged from \$5,000 (single summons) to \$15,000 (multiple summonses) each.

Surcharge on default contributions

8. As foreshadowed in the previous progress report, after allowing an Adaptation Period, the MPFA decided to implement the contribution surcharge mechanism on default contribution reports received from trustees. Employers were advised of this decision in writing in July. The MPFA will impose a contribution surcharge of 15% per annum on employers in default. The surcharges will be credited into the employees' MPF accounts. The surcharge will be increased to 20% per annum if the contribution in arrears and the 15% surcharge are not paid by the due date specified in the notice issued to employers concerned. In August, 9 446 surcharge notices have been issued to the employers based on information reported by trustees. In addition, 55 surcharge notices related to 160 complaint cases lodged by employees were served on employers concerned.

Review of the MPF System

9. A briefing session to members of the MPF Schemes Operation Review Committee was held on 23 August 2001. The Committee is chaired by Mr Ronald Arculli and comprises representatives from employer and employee groups, the MPF industry, professional bodies and relevant Government departments. The first meeting of the Committee will be held in mid-September.

Education and Publicity

10. In August, the MPFA's education and publicity programmes continued with its outreach programmes by holding regular "Information Station" and "Meet-the-Public" sessions to emphasize on investment education. Seminars and talks on MPF investment education were held regularly at different districts. The MPFA has also published a leaflet entitled "Guide to Employees on MPF Benefit Transfer" for distribution to scheme members through the offices of the Home Affairs Department and the LD.

11. For employers and human resources management professionals, workshops had been organized to discuss issues relating to MPF scheme administration, including the contribution surcharge mechanism.

Members to Note

12. Members are requested to note the contents of this paper.

Mandatory Provident Fund Schemes Authority

4 September 2001