

**The Administration's response to the issues raised at
the Bills Committee meeting on 3 June 2002**

Minimum and maximum levels of relevant income for Mandatory Provident Fund (MPF) contributions

(a) Explanation on the findings on median income and the monthly employment earnings at 90th percentile of monthly employment earnings distribution

While the MPF legislation was enacted in 1995, the median income (median monthly employment earnings) of \$8,000 for 1994 was used as a basis for determining the minimum income limit. According to the statistics provided by the Census and Statistics Department, the median income as at the first quarter of 2002 was \$10,000. In fact, the increase in the median income occurred in the earlier years, from \$8,000 in 1994 to \$10,000 in 1997, and has since remained generally static at \$10,000. It is only after the Asian financial crisis in late 1997 that employees face more incidents of wage freeze and reduction.

So far, the effect of wage reduction seems to be more visible amongst employed persons with lower employment earnings. For example, the proportion of persons who earn less than the median employment earnings was 46% in the first quarter of this year, larger than that of 44% in the third quarter of 1997. The corresponding ratio for those who earn less than half of the median level likewise increased, from 10% to 14%.

There exists a band of employed persons earning \$10,000, which is the same as the median income. In the third quarter of 1997, those earning \$10,000 ranges from the 45th to 54th percentile of the overall employment earnings distribution. In the first quarter of this year, it ranges from the 47th to 54th percentile. This indicates a larger proportion of employed persons now have employment earnings below \$10,000, along with the economic downturn and more extensive wage cut.

On the increase in monthly employment earnings at 90th percentile from \$20,000 in 1994 to \$30,000 in the first quarter of 2002, again the statistics are provided by the Census and Statistics Department. In 1994, the income

level that covered 90% of the working population was \$20,000 (i.e., 90% of the workforce earned \$20,000 or below). It rose to \$26,000 in the third quarter of 1997 and further to \$30,000 in the first quarter of 2000, and has remained at around that level since then. As to employed persons earning \$20,000 or below, the respective share in total employment is now 83%. Most of the employed persons in the higher income group comprise managers, administrators, professionals and associate professionals. They have been relatively less affected by the recent slackening in labour market conditions.

In face of the challenges arising from globalisation of activities and transformation into a knowledge-based economy, companies in Hong Kong generally have been undergoing restructuring in a move to enhance their productivity and competitiveness. In consequence, workers with better experience and skills are more sought after, while workers with little or no skills tend to be in weaker demand.

(b) Information on the additional retirement protection enjoyed by employees with income higher than \$20,000 per month

A substantial portion of the employees earning more than \$20,000 per month are employees exempt from MPF. Based on information from MPFA and the Census and Statistics Department, the Treasury and Education Department, we estimate that more than 70% of the relevant employees earning more than \$20,000 per month are already exempt from the MPF System (for example: civil servants covered by the Civil Service Pension System, teachers covered by the Grant Schools or Subsidized School Provident Funds, expatriates who are covered by overseas retirement schemes or who work in Hong Kong for not more than 13 months, and employees of MPF exempted ORSO schemes).

For the remaining relevant employees earning more than \$20,000 per month (about 100,000), many of them may already be receiving/making voluntary contribution on top of mandatory contributions. Out of the about \$2 billion monthly contributions to MPF schemes, about 9% are voluntary contributions.

(c) The latest statistics on the number of employed persons affected if the minimum level is \$4,000, \$5,000, \$6,000 and 7,000

	Relevant Employees/SEPs* exempt under the minimum level of income	
The minimum level of income (per month) :	Q3/2001 (Statistics used at the time of the Review, based on data from General Household Survey released on 26 Nov 2001, and information from MPFA, Treasury and Education Department)	Q1/2002 (Latest statistics based on data from General Household Survey released on 28 May 2002, and information from MPFA, Treasury and Education Department)
at \$4,000	57,100	81,300
at \$5,000 (additional)	(56,800)	(66,800)
Total (i.e. income under \$5,000)	114,000	148,100
\$6,000 (additional)	(100,000)	(130,600)
Total (i.e. income under \$6,000)	214,000	278,700
\$7,000 (additional)	(159,900)	(171,000)
Total (i.e. income under \$7,000)	373,900	449,700

*Relevant employees/SEPs exclude those

- (i) aged below 18 or above 65; and
- (ii) exempted under MPFSO such as domestic helpers, members of MPF exempted ORSO scheme members, employees who are employed for less than 60 days (apart from those in construction and catering industries).

(d) Age Profile of MPF Scheme Members

According to the latest annual returns submitted by approved trustees to the MPFA, the age profile of MPF scheme members is estimated to be as follow:

<i>Age Profile</i>	<i>< 30</i>	<i>>= 30 and < 50</i>	<i>>= 50 and < 60</i>	<i>>= 60 and < 65</i>	<i>>= 65</i>	<i>Total</i>
Number of Members	516,138	1,025,226	247,706	50,926	2,740	1,842,736
% of Total	28%	56%	13%	3%	Negligible	-

Note: Approved trustees file annual returns based upon the respective financial periods of schemes concerned. As individual schemes have different financial periods, there will be slight differences between age bands when the figures reported by different trustees are aggregated. It should be also borne in mind that members with multiple membership accounts in different schemes will be counted more than once.

Projection of Accrued Benefits for Employees Approaching Retirement

As returns are different for different MPF funds, and MPF scheme members are free to choose among the funds within a MPF scheme, it is difficult to project the accrued benefits for an employee approaching retirements.

For a rough illustration, if we use the average return so far for Capital Preservation Fund, and assume that

- a) the same rate of returns will be achieved throughout the entire period before retirement;
- b) the employee concerned is currently earning \$10,000 per month without bonus pay and adjustment in salary throughout the entire period before retirement; and
- c) both the employer and employee contribute 5% of the salary paid without making voluntary contribution;

then, the projection of accrued benefits for employees with contribution time span of 1-5 years are as follows:

		Year				
<i>Fund Category</i>	<i>Rate of Returns</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Capital Preservation Fund	1.7%	12,093	24,392	36,900	49,620	62,557

(e) The impact of MPF contributions on people with salary of \$5,000 and \$6,000

If the minimum income threshold is lifted so that those employed persons with monthly employment earnings between \$5,000 and \$6,000 are also exempted from making MPF contribution, such persons can be expected to have more disposable income, up to 5% of their monthly employment earnings. This would amount to \$250 a month for those employed persons with monthly employment earnings at \$5,000, and \$300 a month for those with monthly employment earnings at \$6,000. These are net disposal income, as the people concerned should normally fall outside the salaries tax net.

While the additional disposal income will add to the financial resources of the employees, the precise beneficial effect on their consumption and standard of living is difficult to assess. Much will depend on their propensity to consume or save, which may vary among different individuals and households, subject to the influence of a host of factors such as consumer confidence, income and job security, and financial position of the individuals and households concerned, etc. For instance, according to the General Household Survey conducted by the Census and Statistics Department, amongst those workers earning \$5,000 a month, over 40% belong to families with household income exceeding the median household income level. With better family support, these persons may consume more out of the additional disposable income. The precise impact is unknown, as data on saving ratio in respect of individuals or households are not available.

Enhanced protection for scheme members

(f) Number of cases which have passed the 6 month prosecution time-bar

According to MPFA, in the first 5 months of 2002, 255 non-enrolment complaints (30.8% of total) have already passed the 6 month time limit upon the receipt of the reports by MPFA.

(g) Number of cases in which employers still fail to take remedial action after conviction

According to MPFA, there are 3 cases in which employers still fail to take remedial action after the first conviction.

(h) Examples of provisions in other Ordinances similar to proposed section 43(B)4

The examples include section 34 of Bedspace Apartments Ordinance (Cap. 447), and section 22 of Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566), in which the prosecution time limit is extended to six months after the discovery of the offence by the relevant authorities.

(i) Feasibility of a fixed penalty on the offence of non-enrolment in MPF schemes

It appears that there is no precedent in our legislation that imposes a fixed penalty arrangement for a continuous offence. We consider that it is not appropriate to impose a fixed penalty on a continuous offence. Given the nature of the proposed section 7(1A), only a magistrate or court could determine whether that section had been contravened.

(j) The fine/penalty in section 43B(3)

The fine/penalty stipulated in the proposed section 43B(3) is the maximum fine/penalty and the court has the discretion in awarding the level of penalty.

Consultation

(k) Employers' Organizations consulted on the proposals in the Bill

Employers' Federation of Hong Kong is represented on the MPF Schemes Operation Review Committee. Separately, we are also seeking the views of the Chinese General Chamber of Commerce, Federation of Hong Kong Industries, Hong Kong General Chamber of Commerce and The Chinese Manufacturers' Association on the provisions in the Bill. No adverse comments have been received so far.

The membership lists of the MPF Schemes Advisory Committee and the MPF Industry Schemes Committee are attached at Annex.

(l) Labour Advisory Board (LAB)

We have not consulted the LAB on the proposed amendments in the Bill. In preparing the relevant legislative proposals, the employers and employees' representatives have been consulted via the MPF Schemes Operation Committee, the MPF Schemes Advisory Committee and the MPF Industry Schemes Committee.

Membership of the
Mandatory Provident Fund Schemes Advisory Committee
(as at 10 June 2002)

Chairman

Prof Nelson CHOW Wing-sun, SBS, JP

Deputy Chairman

Mr Rafael HUI, GBS, JP - Managing Director of the MPFA

Other Members

Employee Representatives

The Hon CHAN Yuen-han, JP

Mr POON Siu-ping, MH

Employer Representatives

Mr HO Sai-chu, SBS, JP

Mr Danny NGAI Kam-fai

Retirement Schemes Industry

The Hon Bernard CHAN

Mr Desmond CHAN

The Hon NG Leung-sing, JP

Others

The Hon David CHU Yu-lin, JP

The Hon SIN Chung-kai

Secretary

Miss Alice TANG – Manager (Corporate Affairs), MPFA

**Membership List of the
MPF Industry Schemes Committee**

(as at 10 June 2002)

Chairperson:

Mr Lee Kai-ming, SBS, JP

Members:

Employer Representatives

Mr Ho Sai-chu, SBS, JP

Mr Mok Kwok-wo

Mr Cheung Wai-lam, Valiant

Mr So Kim-hung

Employee Representatives

Mr Poon To-chuen, MH

Mr Chan Chi-leung

Mr Ngan Chun-hung

Mr Chan Wai-lun

Trustee Representative

Mr Chan Kay-cheung

MPFA Representative

Mr Lee Shu-wing, Ernest, BBS