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11 June 2002

Ms Connie Fung
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Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Central
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Dear Ms Fung,

Mandatory Provident Fund Schemes (Amendment) Bill 2002

Thank you for your letter of 5 June 2002.

Clause 6 of the Bill seeks to amend section 12 of the Ordinance to clarify that the interests derived from monies-in-transit must be retained by an approved trustee either –

(a) for the payment of any administrative expenses of the scheme; or
(b) as income of the scheme

for the benefit of scheme members.

A member of the Bills Committee has asked for the rationale behind the proposal for allowing the trustee to use the interest derived from monies-in-transit to defray scheme administration expenses.

The actual amount of interest derived from monies-in-transit is not expected to be substantial. Invariably, the amount would not be adequate to meet the administrative expenses of a scheme. Hence whether the interest so derived should be used to defray administrative expenses or to be calculated as income of the scheme does not make any difference to the scheme member. The purpose of our proposed amendment is to clarify that interests earned on monies-in-transit must be retained by the trustees and used for the benefit of scheme members, either for the payment of administrative expenses of the scheme or as income of the scheme, with minimal administrative work (hence cost to scheme members) to make the whole exercise worth pursuing.

At present, most MPF trustees have already adopted the well established practice in the retirement scheme and fund management industries of using the interest derived from monies-in-transit to defray administrative expenses. Such practice has also been incorporated into many scheme documents and adopted by trustees in developing their administration systems. If these trustees were required to change this practice, they would need to change their systems, procedures and scheme documents. This would add cost and complicate the well accepted arrangement without adding value to scheme members. On balance, we find it more appropriate to provide some flexibility to service providers by giving them a choice between using the interest derived to defray administrative expenses or to treat them as scheme income and calculate the administrative expenses separately. The two approaches have the same net effect.

Yours sincerely,

(Miss Patricia So)

for Secretary for Financial Services