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Panel on Financial Affairs

Meeting on 5 January 2007

**Background Brief on
Review of the Minimum and Maximum Relevant Income Levels for
Mandatory Provident Fund Contributions**

Purpose

This paper sets out the background of the review of the minimum and maximum relevant income levels for Mandatory Provident Fund (MPF) contributions as proposed in the Mandatory Provident Fund Schemes (Amendment) Bill 2002 (the 2002 Bill) enacted in July 2002; and summarizes Members' concerns on the subject.

The review on relevant income levels

2. When the MPF system was first launched in December 2000, a relevant employee or self-employed person (SEP) whose relevant income was less than \$4,000 per month was not required to make MPF contributions, although his employer (if any) had to make contributions in respect of him. If the relevant income of the relevant employee or SEP was above \$20,000 per month, he was not required to contribute to the MPF scheme in respect of the amount in excess of \$20,000. The minimum and maximum levels of \$4,000 and \$20,000 respectively were adopted in 1995 when the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) was enacted. According to the Administration, the principles adopted in setting the minimum and maximum levels of income were based on the recommendation in the Report of the Consultancy on the MPF System in 1995, i.e. the \$4,000 was derived from 50% of the then monthly median employment earnings; and the \$20,000 was based on the target to cover the entire earnings of 90% of the working population.

3. With a view to reviewing the operation of the MPF system, the Mandatory Provident Fund Schemes Authority (MPFA) set up the MPF Schemes Operation Review Committee (the Review Committee) in August 2001. It completed the first phase of its work in end 2001 and put forward a number of proposals. The Administration agreed with the proposals and introduced the 2002 Bill which

proposed, inter alia, a mechanism for future adjustment of the minimum and maximum levels of relevant income for MPF contribution purposes. It was proposed that MPFA must conduct a review of the minimum and maximum levels of relevant income **not less than once in every four years**. Without limiting the factors which MPFA might take into consideration, MPFA must take into account the following findings prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department :

- (a) in respect of the minimum level of relevant income, 50% of the monthly median employment earnings (monthly median income); and
- (b) in respect of the maximum level of relevant income, monthly employment earnings at 90th percentile of the monthly employment earnings distribution.

4. Accordingly, the Administration proposed in the 2002 Bill to revise the minimum level of relevant income from \$4,000 to **\$5,000 per month**. However, having regard to the prevailing economic conditions at that time, the Administration proposed to retain **\$20,000 per month** as the maximum level of relevant income instead of raising it to \$30,000 in accordance with the relevant findings. The 2002 Bill was passed by the Legislative Council on 12 July 2002. To allow time for service providers and employers to make adjustments to their systems and administration procedures, the raising of the minimum level of relevant income for MPF contributions (as well as some other changes) became effective on 1 February 2003.

5. An extract of existing provisions of MPFSO relating to the minimum and maximum relevant income levels for MPF contributions is at the **Appendix**.

Major views and concerns expressed by Members

Time-frame for review

6. During scrutiny of the 2002 Bill by the Bills Committee, members noted that the Administration considered it reasonable to conduct a review not less than once in every period of four years as it might not be desirable to require service providers/employers to make adjustments to their computer or administrative systems too frequently. Members raised no objection to the four-year time-frame but were concerned about the transparency of future reviews conducted by MPFA. To address the concern, the Administration undertook to report to the Panel on Financial Affairs on each review conducted by MPFA under section 10A of MPFSO. The Administration also took note of members' concern about the need to enhance publicity on the outcomes of future reviews by MPFA.

Minimum and maximum levels of relevant income

7. In proposing to raise the minimum level of relevant income from \$4,000 to \$5,000 per month in the 2002 Bill (i.e. adopting the threshold of 50% of the monthly median income), the Administration sought to strike a balance between avoiding to burden lower income workers and protecting their retirement needs. At that time, the Administration also informed the Bills Committee that about 57 000 employees and SEPs were estimated to be excluded from the contribution net as their relevant income was below the \$4,000 level. Another 56 800 employees and SEPs would be carved out if the level was raised to \$5,000.

8. While most members of the Bills Committee did not have any strong view against the Administration's proposal, a few members were of the view that the minimum level should be raised to \$6,000 per month so as to relieve low income workers of the financial burden of making MPF contributions and to enable them to retain more disposable income which could help boost private consumption. For this purpose, Hon Andrew CHENG moved Committee Stage amendments (CSAs) to the Bill in his name stipulating that not less than 60% of the monthly median income should be adopted as the minimum relevant income level for MPF contributions. Mr CHENG considered that there was flexibility in his proposed CSAs since the level could be raised above the 60% in the light of changes in economic conditions.

9. The Administration objected to the member's CSAs and pointed out during the Second Reading debate on the Bill that some 130 000 employed persons would be excluded from the MPF contribution net if the proposed 60% level was adopted, thereby defeating the purpose of helping lower income workers to prepare for retirement. Furthermore, this would also mean a reduction in the amount of MPF benefits that would be accrued for scheme members upon retirement. According to the Administration, based on the 2001 statistics, it was estimated that increasing the minimum relevant income level from \$5,000 to \$6,000 per month would increase private consumption expenditure by a mere 0.009% which was not significant.

10. As regards the maximum relevant income level, if the findings at paragraph 3(b) were applied, the level should be increased to \$30,000 per month. However, given the economic conditions prevailing at that time, the Administration considered it appropriate to retain the maximum level at \$20,000 per month to avoid increasing the burden on employers/employees. According to MPFA, many employees in the income bands between \$20,000 and \$30,000 per month were members of MPF schemes receiving voluntary contributions on top of mandatory contributions. Therefore, proposing no change to the maximum level at that time would unlikely affect the retirement protection for employees within these income bands.

11. Some members queried the Administration for adopting a double standard in not adjusting the maximum level of relevant income in accordance with the relevant findings as in the case of the minimum level of relevant income. In this

connection, Hon Andrew CHENG considered that a lower percentile of the monthly employment earnings distribution should be stipulated in the legislation so as to obviate the need to deviate from the agreed principle every now and then and to rely on the discretion of the MPFA/Administration to determine the appropriate level. He had therefore moved CSAs to the effect that the monthly employment earnings at a percentile not exceeding 80th of the monthly employment earnings distribution should be adopted as the maximum level of relevant income. This would also mean that where necessary, the Administration could take into account changes in economic conditions to flexibly lower the percentile.

12. The Administration advised that the objective of its proposal on the maximum relevant income level was to extend as far as possible the coverage of the MPF system. It would result in the coverage of the entire earnings of 90% of the employed population by the MPF contribution net. The Administration considered that lowering the percentile would run contrary to the aforesaid objective and did not support the member's CSAs.

13. The CSAs moved by Hon Andrew CHENG relating to the minimum and maximum levels of relevant income were negated. The Administration's proposals were passed and have been in force since February 2003.

Latest position

14. The MPFA has conducted a review on the minimum and maximum levels of relevant income for MPF contributions in accordance with the MPFSO and will report to the Panel on Financial Affairs at the meeting on 5 January 2007.

Relevant papers

Legislative Council Brief on Mandatory Provident Fund Schemes (Amendment) Bill 2002 issued by the Financial Services Bureau on 17 April 2002
http://www.legco.gov.hk/yr01-02/english/bills/brief/b53_brf.pdf

Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2002
<http://www.legco.gov.hk/yr01-02/english/hc/papers/hc0628cb1-2114.pdf>

Hansard of the Legislative Council meeting on 12 July 2002
<http://www.legco.gov.hk/yr01-02/english/counmtg/hansard/cm0712ti-translate-e.pdf>

**Extract of relevant provision from the
Mandatory Provident Fund Schemes Ordinance (Cap.485)**

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Section 2 Interpretation

"maximum level of relevant income" (最高有關入息水平) means the level of relevant income specified in Schedule 3 above which a mandatory contribution is not required to be paid to a registered scheme; (Replaced 4 of 1998 s. 2)

"minimum level of relevant income" (最低有關入息水平) means the level of relevant income specified in Schedule 2 below which level an employee or self-employed person has the option of not participating in a registered scheme; (Amended 4 of 1998 s. 2)

"relevant income" (有關入息) means-

- (a) in the case of a relevant employee, any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance (other than a housing allowance or other housing benefit), expressed in monetary terms, paid or payable by an employer (directly or indirectly) to that relevant employee in consideration of his employment under that contract, but does not include severance payments or long service payments under the Employment Ordinance (Cap 57);
- (b) in the case of a self-employed person, income of that person as ascertained in accordance with the regulations; (Amended 4 of 1998 s. 2)

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Section 9 Minimum level of income for contribution purposes

A relevant employee or self-employed person whose relevant income is less than the minimum level of relevant income specified in Schedule 2 is not required to contribute in relation to a registered scheme but, in the case of a relevant employee, may by notice in writing to his employer elect to do so.

(Amended 4 of 1998 s. 2)

Section 10 Maximum level of income for contribution purposes

(1) A relevant employee or self-employed person whose relevant income is more than the maximum level of relevant income specified in Schedule 3 is not required to contribute in relation to a registered scheme in respect of the excess relevant income but, in the case of a relevant employee, may by notice in writing to his employer elect to do so. (Amended 4 of 1998 s. 2)

(2) If a relevant employee referred to in subsection (1) elects to make contributions to a registered scheme in respect of the employee's excess relevant income, the employee's employer-

(a) must give effect to the election by making deductions and paying contributions in respect of the employee in accordance with section 7A; and

(b) may also make contributions to the scheme in respect of that excess relevant income, but is not obliged to do so.

(Replaced 4 of 1998 s. 2)

Section 10A Authority to conduct review of minimum and maximum levels of relevant income every 4 years

(1) The Authority must, not less than once in every period of 4 years beginning with the commencement of this section, conduct a review of the minimum level of relevant income and the maximum level of relevant income to ascertain whether or not there are grounds to amend Schedule 2 or 3 or Schedules 2 and 3.

(2) Without limiting the factors which the Authority may take into account for the purposes of conducting a review mentioned in subsection (1), the Authority must take into account-

- (a) in respect of the minimum level of relevant income, 50 per cent of the monthly median employment earnings prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department; and
- (b) in respect of the maximum level of relevant income, monthly employment earnings at 90th percentile of the monthly employment earnings distribution prevailing at the time of the review as compiled from the General Household Survey conducted by the Census and Statistics Department.

(Added 29 of 2002 s. 5)

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Schedule 2 MINIMUM LEVEL OF RELEVANT INCOME PER CONTRIBUTION PERIOD

Remarks:

For the transitional provision relating to the amendments made by the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 (29 of 2002), see section 15 of that Ordinance.

[sections 2, 9, 10A, 11 & 48]

1. The minimum level of relevant income for the purposes of section 9 of this Ordinance, in the case of a relevant employee (not being a casual employee who is a member of an industry scheme), is-

- (a) if the employee is remunerated on a monthly basis, \$5000 per month;
- (b) if the employee is remunerated more frequently than on a monthly basis, \$160 per day;
- (c) if the employee is remunerated less frequently than on a monthly basis, \$5000 per month, that amount as prorated.

2. The minimum level of relevant income for the purposes of section 9 of this Ordinance is, in the case of a casual employee who is a member of an industry scheme, \$160 per day.

3. The minimum level of relevant income for the purposes of section 9 of this Ordinance is, in the case of a self-employed person, \$5000 per month or \$60000 per year.

(Schedule 2 replaced 29 of 2002 s. 12)

Schedule 3 MAXIMUM LEVEL OF RELEVANT INCOME PER CONTRIBUTION PERIOD

Remarks:

For the transitional provision relating to the amendments made by the Mandatory Provident Fund Schemes (Amendment) (No. 2) Ordinance 2002 (29 of 2002), see section 15 of that Ordinance.

[sections 2, 10, 10A & 48]

1. The maximum level of relevant income for the purposes of section 10 of this Ordinance, in the case of a relevant employee (not being a casual employee who is a member of an industry scheme), is-

- (a) if the employee is remunerated on a monthly basis, \$20000 per month;
- (b) if the employee is remunerated more frequently than on a monthly basis, \$650 per day;
- (c) if the employee is remunerated less frequently than on a monthly basis, \$20000 per month, that amount as prorated.

2. The maximum level of relevant income for the purposes of section 10 of this Ordinance is, in the case of a casual employee who is a member of an industry scheme, \$650 per day.

3. The maximum level of relevant income for the purposes of section 10 of this Ordinance is, in the case of a self-employed person, \$20000 per month or \$240000 per year.

(Schedule 3 replaced 29 of 2002 s. 12)

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