

For discussion on
30 June 2008

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2008**

Response to Views

Purpose

The paper sets out the response of the Administration and the Mandatory Provident Fund Schemes Authority (“MPFA”) to the requests and comments made by the Members of the Bills Committee on the Mandatory Provident Fund Schemes (Amendment) Bill 2008 (“Amendment Bill”) at the Bills Committee meeting held on 27 June 2008.

The Administration/ MPFA’s response

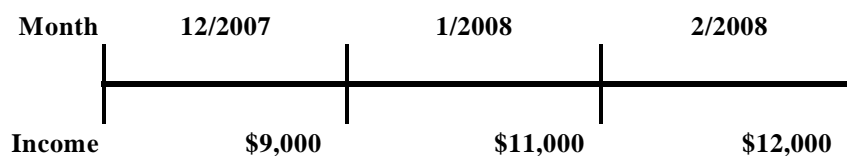
Eligibility for Injection

2. Employees, regardless of whether they are enrolled in an MPF scheme or an MPF-exempted Occupational Retirement Scheme (“ORSO scheme”), are eligible as long as they had an MPF contribution account as at 29 February 2008 or were members of an ORSO scheme and their total relevant income in any one of the three months of December 2007, January 2008 and February 2008 was HK\$10,000 or below.

Example (1)

An employee had only one employment covering the employment period from December 2007 to February 2008.

Income for December 2007	:	\$9,000
Income for January 2008	:	\$11,000
Income for February 2008	:	\$12,000



The income for December 2007 was the lowest among the three months and did not exceed \$10,000. Therefore, the employee is eligible for the injection.

Employees ceasing employment during the year immediately preceding 29 February 2008:

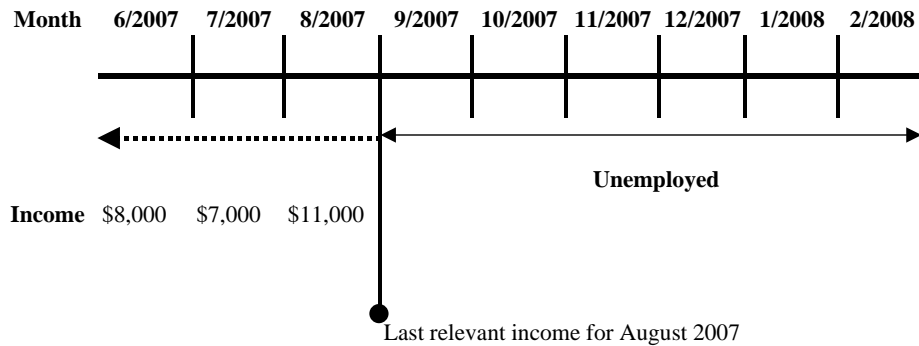
3. In respect of such persons, if:
 - (a) they had an MPF preserved account as at 29 February 2008; were employed at any time between 1 March 2007 and 29 February 2008 and had contribution records under an MPF scheme during this period; or
 - (b) they were once ORSO scheme members during the period from 1 March 2007 to 29 February 2008,

they are eligible provided that, with respect to the last month of their last employment during the aforesaid period and the two months immediately preceding it (i.e. three months in total), their relevant income in any one of the three months was \$10,000 or below.

Example (2)

An employee was under employment in June, July and August 2007 but has become unemployed since September 2007.

Income for June 2007	:	\$8,000
Income for July 2007	:	\$7,000
Income for August 2007	:	\$11,000

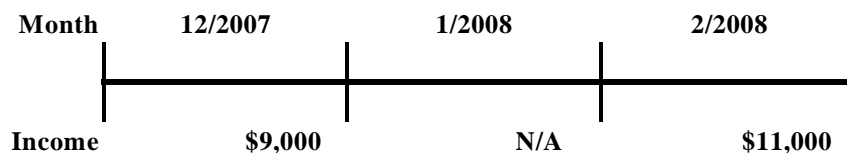


The income for July was the lowest among the three months of June, July and August and did not exceed \$10,000. Therefore, the employee is eligible for the injection.

Specific case (1)

4. An employee was engaged in an employment in December 2007 and before. He was unemployed in January 2008 and started a new employment in February 2008.

Income for December 2007	:	\$9,000
Income for January 2008	:	Not applicable (Unemployed)
Income for February 2008	:	\$11,000



The income for December 2007 was the lowest among the three months and did not exceed \$10,000. Hence, the employee is eligible for the injection.

Specific case (2)

5. An employee was engaged in a full-time and a part-time job at the same time during the period from December 2007 to February 2008. The employer offering the full-time job participated in an ORSO scheme while that offering the part-time job participated in an MPF scheme.

	Full-time job	Part-time job	Total income
Income for December 2007	\$8,500	\$1,600	\$10,100
Income for January 2008	\$8,500	\$2,000	\$10,500
Income for February 2008	\$8,500	\$1,300	\$9,800

The income for February 2008 was the lowest among the three months and did not exceed \$10,000. Hence, the employee is eligible for the injection.

Specific case (3)

6. An employee was employed in February 2008 and remains in the same employment. In April 2008, his employer enrolled him into an MPF scheme and made contributions in respect of him starting from the contribution period of February in accordance with the statutory requirement. Employees under such circumstances will be eligible for injection if they meet the income eligibility criterion.

Employees commencing employment on or before 29 February 2008 but not enrolled into an MPF scheme

7. For employees who commenced employment on or before 29 February 2008, if their employers did not enroll them into an MPF scheme and make contributions for them in accordance with the law requirement, the MPFA encourages them to report the relevant default contribution cases to the MPFA as soon as possible so that prompt follow-up action can be taken to rectify the non-compliance acts of employers and to verify their eligibility for injection. Upon completion of relevant follow-up work and rectification of non-enrolment and non-payment of contributions by employers, the relevant employees will be eligible for injection if they meet the income eligibility

criterion.

Changing employment after 29 February 2008

8. Any persons who meet the eligibility criteria for injection but undergo a change in income or employment or cease employment after 29 February 2008 remain eligible for injection.

9. The different circumstances raised by Members concerning the eligibility of the relevant persons for injection are set out below:

	Circumstances	Eligibility for injection
(a)	Persons aged 60 to 65 or above (regardless of having retired or still under employment)	Any persons will be entitled to the injection if they meet the aforesaid eligibility criteria.
(b)	Employees deceased on or after 1 March 2008	If the employees meet the aforesaid injection criteria, the injection will be paid into their accounts even though they deceased on or after 1 March 2008.
(c)	Employees not enrolled by employers on or before 29 February 2008 as statutorily required	The MPFA will handle the case in accordance with para. 7 as set out above.
(d)	Persons unemployed throughout the period from 1 March 2007 to 29 February 2008	Based on the eligibility criteria in para. 3 above, the relevant persons are not eligible for the injection if they had no contribution records under an MPF scheme or they were not ORSO scheme members from 1 March 2007 to 29 February 2008.

	Circumstances	Eligibility for injection
(e)	Persons earning more than \$10,000 in the first 6 months of the period from 1 March 2007 to 29 February 2008 and being unemployed in the following 6 months.	Based on the eligibility criteria in para. 3 above, the relevant persons are not eligible for the injection as their relevant income in any one of the three months, which include the last month of their last employment between 1 March 2007 and 29 February 2008 and the two months immediately preceding it, exceeded \$10,000.

Mechanism of handling requests for case review

10. In implementing the injection exercise, the MPFA will, under the power conferred by the amended Mandatory Provident Fund Schemes Ordinance, collect information from trustees and employers concerned about a total of several million MPF and ORSO scheme accounts for verification and consolidation in order to compile a list of eligible recipients. The MPFA will then send the list of eligible recipients to the trustees of the relevant MPF schemes. The trustees are required to make the injections into the MPF accounts of eligible recipients according to the list and directions of the MPFA and give written notification to holders of MPF accounts to which the injection has been made.

11. The MPFA will set up a mechanism for those to who do not receive injection but consider themselves eligible for receiving such injection to request a review of their cases. In handling these cases, the MPFA will verify the records of the applicants and the additional information provided by them to review if they satisfy the injection criteria. Before the Administration seeks funding approval from the LegCo Finance Committee, the MPFA will provide the LegCo Panel on Financial Affairs with information about the schedule and detailed arrangements of the mechanism of handling review applications. After reviewing the cases, the MPFA will give written notification to the persons concerned of the results of the review. The MPFA will consider whether to make public the summaries of those cases found to be eligible for reference by the others.

12. The MPFA expects that the case reviews will mainly involve checking the accuracy of the existing information. The applicants may provide additional information to the MPFA, who will review their cases according to such information. The entire procedure of handling the case reviews will be monitored by a special committee set up by non-executive directors. Where it is necessary to make further clarification on the injection criteria, the MPFA will consult the Government.

Are scheme members allowed to withdraw special contribution at any time

13. The Financial Secretary has proposed in the 2008-2009 Budget that a one-off injection of \$6,000 will be made to the MPF accounts of eligible persons in order to enhance the retirement protection for lower-income working people. Therefore, similar to mandatory contribution, the special contribution will in general have to be deposited in the accounts of scheme members for their retirement benefits. As we have explained in the previous Panel meeting, treating special contribution as voluntary contribution is not consistent with the policy objective of this fiscal measure.

Will the annual average income be used to assess the income eligibility

14. If a budget initiative involves the definition of eligibility criteria of recipient, the latest information (in the case of the injection measure, for example, such information includes the recent income of the individuals) of the person at the time of announcement will generally be used as the basis to assess his eligibility. In the case of the injection measure, as the Budget was announced in late February this year after the Chinese New Year, some employees might have received pay increase or bonus around this time. Therefore, we have adopted a generous approach by taking into account the income of two more months before late February, i.e. the lowest monthly income in three months (i.e. February 2008, January 2008 and December 2007) in assessing whether the scheme member meets the income eligibility of not exceeding \$10,000 a month.

15. Members' proposal of using the average monthly income between 1 March 2007 and 29 February 2008 to assess the income eligibility of a scheme member deviates from the above principle, and thus is not suitable. Moreover,

there will be many difficulties in implementing the proposal. The biggest problem is that since ORSO schemes are not required by law to maintain past records of their employees, and given the different natures and modes of operation of different ORSO schemes, not all trustees have kept the wage information of all members in their system. This is especially the case with ORSO employees who have terminated employment, where not all employers will keep their full wage records for the 12-month period starting from 1 March 2007. At present, most of the 7 000 odd ORSO employers who have terminated employment are small and medium companies employing fewer than 50 employees. They will face considerable difficulties if they are required to provide the income data of serving and ex-serving employees for as long as 12 months.

Other enquiries

16. The 2008-2009 Budget has proposed a one-off tax reduction of 75 percent of salaries tax and tax under personal assessment for 2007-08, subject to a ceiling of \$25,000. Under this measure, single taxpayers with a monthly income between \$10,000 and \$11,999 will enjoy the following tax concessions. The number of MPF scheme members whose income falls within this range is not available.

Monthly income	Tax concession
\$10,000 - \$10,999	\$300 - \$480
\$11,000 – 11,999	\$480 - \$998

Where applicable, the persons concerned may also benefit from other fiscal measures, such as electricity charge subsidy, rates concession and one month rent exemption for leased flats of the Hong Kong Housing Authority and the Hong Kong Housing Society.

Next Step

17. If the Bill is passed within the current legislative session, the MPFA will give written notification to trustees and ORSO employers in July and require them to submit in specified ways the information of up to over five

million accounts. Given the large amount of information, the MPFA should allow the trustees and employers sufficient time for preparation. In addition, the MPFA has also embarked on the upgrading work of its computer system for storing, consolidating and processing the large amount of account information to be received soon. It is expected that the MPFA will receive the information submitted by trustees and employers around November 2008. If necessary, the MPFA will follow up with the trustees and employers to clarify any doubt about the information so as to complete the compilation of the list of eligible recipients as soon as possible to tie in with the work of the Administration in seeking funding approval from the LegCo Finance Committee.

**Financial Services and the Treasury Bureau
Mandatory Provident Fund Schemes Authority
June 2008**