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BY FAX
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Dear YU,

Mandatory Provident Fund Schemes (Amendment) Bill 2009

We are scrutinising the legal and drafting aspects of the Mandatory Provident Fund Schemes (Amendment) Bill 2009 (the Bill). We have the following questions in relation to the Bill and would be grateful for your clarification.

Clause 11(3)

In the proposed new definition of "personal account", in paragraph (b), does the account show which part of the accrued benefits is derived from the mandatory contributions paid by the employee in his former employment, the mandatory contributions paid in respect of the employee in his former employment, the mandatory contributions paid by the employee in his former self-employment, the voluntary contributions paid by the employee in his former employment, the voluntary contributions paid in respect of the employee in his former employment and the voluntary contributions paid by the employee in his former self-employment?

Clause 13

The clause proposes to amend section 34 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) (the Regulation) by clarifying the amount to be charged for transfer of accrued benefits.

- (a) In the amended section 34, an amount representing the necessary transaction costs, for transfer of accrued benefits, that are incurred, or reasonably likely to be incurred by the approved trustee may be charged. What is the reason for not limiting the charge to the actual expenses that are incurred by the approved trustee?
- (b) Could you give examples to illustrate an amount representing the necessary costs that are reasonably likely to be incurred?
- (c) Could you give examples to be covered by the proposed scope of investments?

Clause 17

The proposed new section 148A

- (a) The LegCo Brief explains the reason why the option to allow an employee to transfer to his personal account the accrued benefits derived from mandatory contributions made by the employers is not adopted. What is the reason for not providing for the transfer by an employee to his personal account the accrued benefits derived from the voluntary contributions paid in respect of the employee by his current employer or the voluntary contributions paid by an employee while employed by his current employer?
- (b) The proposed new section 148A(4) provides that an employee may transfer to his personal account the accrued benefit derived from mandatory contributions made by the employee subject to paragraph (a) (right to transfer once in every calendar year) or (b) (right to transfer more than once in every calendar year subject to the governing scheme rules). What is the reason for not giving a statutory right of transfer for more than once to an employee?

The proposed new section 148B

What is the reason for not providing for the transfer by an employee to another account the accrued benefits derived from the voluntary contributions in respect of his former employment or former self-employment?

Clause 19

Why is it necessary to add the reference to notification of election by an employee upon cessation of employment to section 153(2) and (3) of the Regulation?

Clause 20(2)

Would you give examples to illustrate the kind of information as may be required by the Mandatory Provident Fund Schemes Authority?

Clause 20(3)

In comparing to the existing section 154(2) of the Regulation, what is the reason for dispensing with the requirement for the transferor trustee to give a copy of the election form completed by the transferor trustee to the transferee trustee?

Clause 22

The proposed new section 157A

What is the reason for excluding the reference to the amended section 149?

Clause 24

Is it necessary to provide for, in the transitional and savings provision, pending litigations in respect of the accrued benefits in a preserved account?

We would be grateful for your reply in both languages to reach us at your earliest opportunity.

Yours sincerely,

(Stephen LAM)
Assistant Legal Adviser

cc. DoJ (Attn.: Mr Allen LAI, SGC) (Fax: 2869 1302)

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