

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2009**

Proposed Committee Stage Amendments

PURPOSE

This note sets out two sets of Committee Stage Amendments (“CSAs”) intended to be moved by the Administration to the Mandatory Provident Fund Schemes (Amendment) Bill 2009 (“the Bill”).

PROPOSED CSAs

2. As mentioned at the last Bills Committee meeting on 4 June 2009, the Administration would circulate for Members’ consideration proposed CSAs for making some technical changes to the Bill. The CSAs are proposed having regard to -

- (a) a comment by the Law Society of Hong Kong (“the Law Society”) that the transferor trustee’s obligation to make the transfer upon receipt of notification of an election by a scheme member in accordance with the proposed sections 148A(5)(a), 148B(4)(a) or 148(B)(4)(c) in the Bill should be stipulated clearly; and
- (b) a suggestion made by some Members that the Mandatory Provident Fund Schemes Authority (“MPFA”) should consider ways to facilitate scheme members to consolidate their multiple MPF accounts by reminding them of the number of personal accounts they are holding.

3. An explanatory note on the proposed CSAs and the draft text are set out at **Annex A** and **Annex B** respectively.

**Financial Services and the Treasury Bureau
June 2009**

**Explanatory Note on Proposed Committee Stage Amendments
to the Mandatory Provident Fund Schemes (Amendment) Bill 2009**

Clause (relevant sections in Bracket)	Remarks
<p align="center">19 (section 153(3) of the Mandatory Provident Fund Schemes (General Regulation (“General Regulation”))</p>	<ul style="list-style-type: none"> • To amend section 153 of the General Regulation to – <ul style="list-style-type: none"> (i) stipulate clearly the transferor trustee’s obligation to complete the transfer within 30 days after being notified of an election by a scheme member under proposed sections 148A(5)(a), 148B(4)(a) or (c), or 149(2)(a) or (c) which involve transfer of accrued benefits <u>to a separate account within the same registered scheme</u>; and (ii) include a new subsection 153(3A) to stipulate clearly the transferor trustee’s obligation to complete the transfer within 30 days after being notified of an election by a scheme member under section 145(8)(b) of the General Regulation which involves transfer of accrued benefits <u>to a personal account in a master trust scheme nominated by the transferor trustee</u>. <p><u>Background</u></p> <ul style="list-style-type: none"> • Existing section 153(3) of the General Regulation has already imposed an obligation on the transferor trustee to complete the transfer within 30 days after being notified of an election where the election involves <u>transfer of accrued benefits to a separate account within the same registered scheme</u>. This is to cater for the situation under existing sections 146(4)(a) or 146(10)(b) of the General Regulation. • Since a transferor trustee may also receive similar notification of an election by a scheme member for transfer of accrued benefits to a separate account within the same registered

Clause (relevant sections in Bracket)	Remarks
	<p>scheme under the proposed sections 148A(5)(a), 148B(4)(a) or (c), or 149(2)(a) or (c) in the Bill, we will move CSA to amend section 153(3) to extend its application to the afore-mentioned sections in the Bill.</p> <ul style="list-style-type: none"> In this connection, we propose to move another CSA to section 153 to clearly stipulate that a transferor trustee should also comply with the same 30 days requirement in the case of an election made by a scheme member under existing section 145(8)(b) of the General Regulation which involves <u>transfer of accrued benefits to a personal account in a master trust scheme nominated by the transferor trustee concerned</u>¹.
<p>10 (Section 46(1A)(da) of the Mandatory Provident Fund Schemes Ordinance)</p> <p>22 (section 157B(1) of the General Regulation)</p>	<ul style="list-style-type: none"> To amend section 157B of the General Regulation to – <ul style="list-style-type: none"> (i) expand the scope of the information to be specified in the register by including the number of personal accounts established and maintained by a member; and (ii) enable MPFA to notify a member of a registered scheme in writing of any information contained in the Register in relation to that member on its own initiative. <p><u>Background</u></p> <ul style="list-style-type: none"> As mentioned in our earlier written response to Members’ suggestion in connection with the register on personal accounts (Ref. <u>LC Paper No. CB(1)1785/08-09(03)</u>), MPFA will review the situation of multiple accounts holding after implementation of the portability

¹ Section 145(8)(b) deals with the situation where an employee has failed to notify the approved trustee of an employer sponsored scheme his election for transfer of accrued benefits within three months after the approved trustee has been notified of his cessation of employment. In that case, the approved trustee could transfer the accrued benefits of the employee concerned from the employer sponsored scheme to a personal account in a master trust scheme as nominated by that trustee.

Clause (relevant sections in Bracket)	Remarks
	<p>proposal for a certain period and consider appropriate means to remind relevant scheme members of the arrangements to consolidate their multiple accounts. In this regard, we propose to amend the proposed section 157B of the General Regulation to enable MPFA to notify scheme members in writing of the information contained in the register, including the number of personal accounts they have established with different trustees.</p>

**Financial Services and the Treasury Bureau
June 2009**

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2009

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
10	In the proposed section 46(1A)(<i>da</i>), by deleting “on request”.
19	<p>(a) By adding –</p> <p>“(1A) Section 153(3) is amended by adding “, 148A(5)(<i>a</i>), 148B(4)(<i>a</i>) or (<i>c</i>) or 149(2)(<i>a</i>) or (<i>c</i>)” after “(10)(<i>b</i>)”.</p> <p>(b) By adding –</p> <p>“(3) Section 153 is amended by adding –</p> <p>“(3A) A transferor trustee who is taken to have been notified of an election under section 145(8)(<i>b</i>) must, within 30 days after the end of the period referred to in that section, arrange for the accrued benefits concerned to be transferred to the personal account referred to in section 145(8)(<i>a</i>).”.</p> <p>(4) Section 153(5) is amended by repealing “and (3)” and substituting “, (3) and (3A)”.</p> <p>(5) Section 153(5)(<i>b</i>) is amended by adding “made or taken to have been made” after “the election”.</p>

- 20 By adding before subclause (1) –
- “(1A) Section 154(1) is amended by adding “or (3A)” after “153(2)”.”.
- 22 (a) By deleting the proposed section 157B(1) and substituting –
- “(1) The Authority must establish and maintain a register of members of registered schemes who have established and maintained personal accounts within master trust schemes or industry schemes for the purposes of enabling –
- (a) a person who made a request under subsection (4) to ascertain in accordance with that subsection any information contained in the register; and
- (b) the Authority to notify under subsection (5) a member of a registered scheme of any information contained in the register.”.
- (b) In the proposed section 157B(3), by adding –
- “(ba) the number of personal accounts established and maintained by the member;”.
- (c) In the proposed section 157B(3)(c), by adding “, or each of the personal accounts,” after “personal account”.
- (d) In the proposed section 157B(3)(d), by deleting “for the purpose of providing information relating to the personal account” and substituting “, or each of the approved trustees, for the purpose of providing information relating to the personal account concerned”.
- (e) In the proposed section 157B(4), by deleting everything after “information contained in the register” and substituting –

“about the personal accounts (if any) established and maintained within any master trust scheme or industry scheme by the relevant person, the person who authorized the representative to make the request or the deceased person.”.

(f) In the proposed section 157B, by adding –

“(5) If the Authority considers appropriate, it may, on its own initiative, notify a member of a registered scheme in writing of any information contained in the register about the personal accounts (if any) established and maintained within any master trust scheme or industry scheme by the member.”.