

LegCo Panel on Manpower

Implementation of the Mandatory Provident Fund System Progress Report - October 2009

Purpose

This paper is the monthly update on the Mandatory Provident Fund (MPF) System.

Enrolment

2. The enrolment position, at the end of October 2009 was as follows:

	Number of Participants*			Enrolment Rate		
	As at 31.10.2009	As at 30.9.2009	Change	As at 31.10.2009	As at 30.9.2009	Change
Employers	237 500	238 700	-1 200	99.9%	99.9%	-
Employees	2 199 800	2 195 900	+3 900	98.9%	98.7%	+0.2%
Self-employed persons (SEPs)	264 400	264 500	-100	76.3%	76.3%	-

* rounded to the nearest 100

3. The enrolment rates of employers and SEPs remained stable. The enrolment rate of employees increased by 0.2%. As at the end of October 2009, 16 700 employers, 337 100 employees and 19 300 SEPs were registered under the Industry Schemes¹.

Complaint Handling

Complaints received by the Mandatory Provident Fund Schemes Authority (MPFA) on system operation

4. In October 2009, 492 complaints were received by the MPFA, of which 461 were complaints against 350 employers. The nature of the complaints received was as follows:

¹ These figures have excluded double registration between the two Industry Schemes trustees.

	<u>Number of complaints*</u>
(A) Complaints concerning Scheme members:	
➤ Involuntary change from “employee” status to “SEP” status	4
➤ Non-enrolment in MPF Schemes	157
➤ Default contribution	418
➤ Others (e.g. dismissal; no pay records)	89
(B) Complaints concerning Trustees, Intermediaries, scheme under the Occupational Retirement Schemes Ordinance (ORSO), etc.	31

* *Multiple selections included.*

Complaints received by the Labour Department (“LD”)

5. In October 2009, the LD received 19 MPF-related complaints, all of which were related to alleged wrongful deduction of wages, default contribution and non-enrolment of employees.

6. Of the total of 396 complaints received from 1 January 2009 until the end of October:

- 138 cases were resolved after conciliation or advice given;
- 182 cases were referred to the Labour Tribunal/ Minor Employment Claims Adjudication Board for adjudication;
- 29 cases where the employers were insolvent were referred to the Legal Aid Department, the Official Receiver’s Office and/ or the Protection of Wages on Insolvency Fund;
- 46 cases where the employees have lodged claims with the LD are awaiting conciliation result; and
- 1 case is awaiting the employee’s decision on whether to lodge claim with the LD for conciliation.

Enforcement

7. The MPFA continued to enforce the MPF Schemes Ordinance by investigating complaints, inspecting employment premises, making claims at law courts on behalf of employees to recover outstanding default contributions, and prosecuting offending employers.

8. Recent enforcement action taken by the MPFA is summarized below:

Enforcement action in October 2009	Number of Cases
<p>A. <u>Prosecution</u></p> <p>Number of summonses applied during the month</p> <ul style="list-style-type: none"> - <i>Non-enrolment of employees</i> 9 - <i>Non-enrolment (Employee / SEP dispute)</i> 0 - <i>Default contribution</i> 80 - <i>False statement</i> 6 - <i>Failing to comply with a lawful requirement made by the Authority in the course of exercising or performing its functions</i> 0 	
<p>B. <u>Contribution Surcharge</u> (@5% of the contributions in arrears)</p> <p>Number of Notices issued to employers</p>	24 000
<p>C. <u>Submission to the Small Claims Tribunal</u></p> <ul style="list-style-type: none"> - Number of cases submitted 52 - Number of employees involved 191 	
<p>D. <u>Submission to the District Court</u></p> <ul style="list-style-type: none"> - Number of cases submitted 6 - Number of employees involved 242 	
<p>E. <u>Submission to the High Court</u></p> <ul style="list-style-type: none"> - Number of cases submitted 0 - Number of employees involved 0 	
<p>F. <u>Submission to liquidators / receivers</u></p> <p>Number of cases submitted</p>	46
<p>G. <u>Proactive Inspections</u></p> <ul style="list-style-type: none"> - Number of employment establishments visited 166 	

Education and Publicity

9. During this month, communication activities for the MPF Investment Education Campaign 2009/10 continued. A total of six briefing sessions were conducted for various stakeholders like District Council committees/sub-committees and employees of a non-government organization. The purpose was to educate and equip scheme members with the knowledge to make informed choices in their MPF investment decision-making process.

10. MPFA completed the renaming of Capital Preservation Fund as “MPF Conservative Fund” by end-September 2009. In this connection, MPFA prepared a new 15-second TV Announcements in the Public Interest (API) and arranged for rerun together with the APIs featuring other four types of MPF funds. They were broadcast at all local free and paid TV channels and out-of-home media like MTR trackside and concourse plasmas and outdoor TV wall.

11. For youth education activities, three MPF talks were conducted to educate students of tertiary institutions about the MPF System and MPF investment. Furthermore, selected winning entries of the “Book Report Competition for Kindergarten Kids” continued to be displayed at the Community Art Gallery of an MTR station to encourage youngsters to cultivate a good habit of saving for the future.

12. To reach out to the community, two MPF seminars were conducted for human resources professionals. MPFA representatives also attended a dinner gathering of a trade union.

13. On media front, 13 press releases concerning MPFA’s enforcement actions were issued to the media. In addition, 13 contribution articles on a number of MPF topics were published through different media channels, focusing mainly on MPF investment and MPF preserved accounts.

14. Members are invited to note the contents of this paper.