

28 February 2012

Hon Wong Ting-Kwong
Chairman of the Bills Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr. Wong,

Bills Committee on Mandatory Provident Fund Schemes (Amendment) (No.2) Bill 2011

I refer to the invitation dated 7 February 2012 sent out on your behalf by the Clerk to the Bills Committee, to provide views from The Hong Kong Retirement Schemes Association (HKRSA), regarding the provisions included in the above Bill.

Given the relatively limited timeframe allowed it has not proved practical to poll the views of all our members. However the following points summarise the conclusions of some of our key stakeholders and those most involved with the MPF.

(A) General Comments

1. The HKRSA is generally supportive of the basic principles and rationale behind the Employee Choice Arrangement (ECA).
2. We note that the ECA is initially being limited to the member's mandatory balances. We believe there would be reasonable expectations by employees for the EC flexibility to be extended to the employer mandatory balances and voluntary balances. However, amongst employers and MPF providers there are mixed views on whether any such extension should be considered now or delayed until a reasonable period of experience with the current ECA. We suggest that any such change take into consideration appropriate transitional arrangements that meet with the approval of stakeholders.
3. We note that there are already currently approximately 3.5 million preserved MPF accounts relative to 2.5 million active accounts. In terms of efficiency of overall management of their MPF balance we believe, alongside the introduction of ECA, should be a focus on helping employees make reasonable decisions in consolidating their accounts. In fact, some of our members consider the significant number of preserved accounts and the issue of consolidation, as a more pressing matter than ECA itself.
4. There remains a vast knowledge gap for many employees as far as making logical informed decisions as regards their MPF balances in the context of their overall long term financial security in retirement. Whilst we believe the introduction of ECA will inevitably bring increased focus on decisions relating to choice of MPF providers, the much bigger issue of providing employees with sufficient investment education to make informed choices remains a key weakness of the whole MPF system.

(B) Statutory MPF Intermediaries Regulatory Regime

1. We support the rationale behind the delayed introduction of ECA until a stronger regulatory regime is in place for MPF intermediaries.

2. We also support the prohibition on intermediaries to offer incentives to MPF members other than a rebate on fees.
3. Whilst supporting a stronger regulatory regime for intermediaries, we do have concerns regarding the practical side of regulating the large number of potential intermediaries in their provision of advice to MPF members which is in the members' interest. Having a Code of Conduct for registered intermediaries and Responsible Officers is certainly better than not having such a code, but risks of mis-selling will we believe remain.
4. We would also encourage the review of the professionalism, standards and impartiality of intermediaries, including more involvement from independent financial planners and consideration to a movement away from a commission basis to a fee basis for compensation, as has been the case in certain other jurisdictions.
5. A number of our MPF provider members are concerned regarding the obligations being put on Responsible Officers under the Bill in that it could require them to actively ensure compliance of their licensees which could be as many as 30-40.
6. Concerns still remain that the wording of the Conduct Requirements are quite broad and subject to interpretation. By way of further explanation, it seems that some provisions in the code are vague and far reaching, and potentially lead to mis-understanding and difficulty in knowing what is or is not permissible or acceptable under the code.
7. We also have concerns regarding the additional costs involved in the increased regulation at the MPFA level, Frontline Regulatory level as well as for the MPF providers themselves. This does not help with the objective of lower fees for the members – particularly if natural inertia by MPF members dilutes any expected fee reductions expected from increased competition.

(C) Establishment of Electronic Transfer System

1. The HKRSA supports the establishment of the proposed electronic transfer system on the premise that it should assist in the accuracy and security for transfers between MPF schemes.
2. We were also pleased to see that the MPFA will bear the costs of developing and establishing the E-platform and will not be charging a fee for the E-platform service during the initial stage. Given the limitations of the E-platform as a data sharing device rather than a total transfer platform including payment and accounting of funds, we question whether in fact the MPFA should charge such a fee even after the initial period.
3. We would encourage the Government and the MPFA to use the E-platform experience to look to the bigger picture of potential administrative cost savings which may be achieved from developing a centralized total MPF administration platform. Any such savings may directly benefit MPF members through lower fees in the longer term.

(D) Enhanced deterrents against employer's defaulting on contributions

1. There was general agreement that the proposed introduction of (a) a daily penalty and; (b) the creation of a new offence for a failure by an employer to comply with a court order for payment of arrears, were both reasonable additions to the MPF regulations.

I trust you will find these comments helpful as you discuss the Bill and would be happy to answer any questions you may have.

Yours sincerely,
On behalf of the
Hong Kong Retirement Schemes Association

A handwritten signature in black ink that reads "Michael Button". The signature is written in a cursive style with a large, looped initial "M".

Mike Button
Chairman

MGB/mn