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Legislative Council

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 2 November 2011

**Amendments to motion on
“Comprehensively reforming the Mandatory Provident Fund Scheme”**

Further to LC Paper No. CB(3) 6/11-12 issued on 21 October 2011, five Members (Hon IP Wai-ming, Hon CHAN Kin-por, Hon James TO, Hon LI Fung-ying and Hon Alan LEONG) have respectively given notices of their intention to move separate amendments to Hon TAM Yiu-chung’s motion on “Comprehensively reforming the Mandatory Provident Fund Scheme” scheduled for the Council meeting of 2 November 2011. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Hon TAM Yiu-chung to speak and move his motion;
- (b) the President proposes the question on Hon TAM Yiu-chung’s motion;
- (c) the President calls upon the five Members, who intend to move amendments, to speak in the following order, but no amendment is to be moved at this stage:
 - (i) Hon IP Wai-ming;
 - (ii) Hon CHAN Kin-por;

- (iii) Hon James TO;
 - (iv) Hon LI Fung-ying; and
 - (v) Hon Alan LEONG;
- (d) the President calls upon the designated public officer(s) to speak;
 - (e) the President invites other Members to speak;
 - (f) the President gives leave to Hon TAM Yiu-chung to speak for the second time on the amendments;
 - (g) the President calls upon the designated public officer(s) again to speak;
 - (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the five Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon IP Wai-ming to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon IP Wai-ming's amendment;
 - (i) after Hon IP Wai-ming's amendment has been voted upon, the President deals with the other four amendments; and
 - (j) after all amendments have been dealt with, the President calls upon Hon TAM Yiu-chung to reply. Thereafter, the President puts to vote the question on Hon TAM Yiu-chung's motion, or his motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Comprehensively reforming the Mandatory Provident Fund Scheme”
to be held at the Council meeting
of 2 November 2011**

1. Hon TAM Yiu-chung’s original motion

That, given that the Mandatory Provident Fund (‘MPF’) Scheme has already been implemented for over 10 years and the various social sectors have put forward many proposals for improving the Scheme, this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme; the relevant review should include:

- (a) to expeditiously implement a full portability arrangement for the MPF Scheme;
- (b) to adopt effective measures to press MPF Scheme trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require MPF Scheme trustees to collect fixed administration fees to replace the practice of collecting such fees at fixed percentages of the total asset values of MPF accounts;
- (c) to require MPF Scheme trustees to provide contributors with products resembling bank deposits that charge no management fees;
- (d) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- (e) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned;
- (f) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees’ compensation insurance;

- (g) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- (h) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- (i) to introduce a maximum tax deduction of \$12,000 for voluntary MPF contributions;
- (j) to prompt the Labour Advisory Board to conduct discussions on the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments;
- (k) to enhance the regulation of MPF Scheme intermediaries; and
- (l) to step up law enforcement and increase penalties to combat the situation of default in contributions,

with a view to achieving the aims of lowering fees, increasing employees' choices for investment and perfecting the regulatory mechanism.

2. Motion as amended by Hon IP Wai-ming

That, *with the increasing gravity of the population ageing problem and the rising social demand for comprehensive retirement protection, and* given that the Mandatory Provident Fund ('MPF') Scheme has already been implemented for over 10 years and the various social sectors have put forward many proposals for improving the Scheme, this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme; the relevant review should include:

- (a) to expeditiously implement a full portability arrangement for the MPF Scheme, *and through publicity and education, to enable employees to understand that they may transfer their MPF contributions according to the levels of risks they can bear;*
- (b) to adopt effective measures to press MPF Scheme trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require MPF Scheme trustees to collect fixed administration fees to replace the practice of

collecting such fees at fixed percentages of the total asset values of MPF accounts;

- (c) to require MPF Scheme trustees to provide contributors with products resembling bank deposits that charge no management fees;
- (d) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- (e) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned, *so as to protect the actual amounts of MPFs received by employees upon retirement from being drastically eroded*;
- (f) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees' compensation insurance, *including requiring trustees to inform employees to whom MPF contributions are owed, and formulate regulations on penalizing trustees*;
- (g) *to implement a system of 'one lifelong account', establish portability of MPF accounts, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to peruse information on contributions, returns, etc. at any time*;
- ~~(g)~~(h) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- ~~(h)~~(i) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- ~~(i)~~(j) to introduce a maximum tax deduction of ~~\$12,000~~ **\$24,000** for voluntary MPF contributions;
- ~~(j)~~(k) to *immediately* prompt the Labour Advisory Board to conduct discussions on the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments, *and adopt proactive measures to abolish the aforesaid mechanism, and at the same time to retain Hong Kong employees'*

rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance;

- ~~(k)~~(l) to enhance the regulation of MPF Scheme intermediaries; ~~and~~
- ~~(j)~~(m) to step up law enforcement and increase penalties, *including raising the proactive inspection rate to 60%, establishing a fixed penalty system, and barring law-breaking employers from the tendering exercises for government and public works projects for five years, so as to combat the situation of default in contributions; and*
- (n) *to expand the protection coverage of the Protection of Wages on Insolvency Fund, including covering arrears of employers' MPF contributions owed to employees,*

~~with a view to achieving the aims lowering fees, increasing employees' choices for investment and perfecting the regulatory mechanism so as to lower fees, increase employees' choices for investment and perfect the regulatory mechanism, and ultimately achieve the goal of establishing a universal retirement protection system.~~

Note: Hon IP Wai-ming's amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon CHAN Kin-por

That, ~~given that~~ the Mandatory Provident Fund ('MPF') Scheme has already been implemented for over 10 years *covered almost 85% of the labour force since its implementation, but as the MPF System is still at its initial stage and in need of continuous improvement,* and the various social sectors have put forward many proposals for improving the Scheme, this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme; ~~the relevant review should include~~ *and examine the feasibility of the following measures and their impact in various respects:*

- (a) ~~to expeditiously implement~~ *prompt the Mandatory Provident Fund Schemes Authority to enhance employees' right to choose through the means of promoting market competition, for example, expeditiously implementing* a full portability arrangement for the MPF Scheme;
- (b) *to streamline the management and administrative procedures of MPF schemes and reduce the operating costs of MPF;*

- ~~(b)~~(c) to adopt effective measures to press MPF Scheme trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require MPF Scheme trustees to collect fixed administration fees to replace the practice of collecting such fees at fixed percentages of the total asset values of MPF accounts;
- ~~(e)~~(d) to require MPF Scheme trustees to provide contributors with products resembling bank deposits that charge no management fees;
- ~~(d)~~(e) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- ~~(e)~~(f) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned;
- ~~(f)~~(g) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees' compensation insurance;
- ~~(g)~~(h) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- ~~(h)~~(i) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- ~~(i)~~(j) to introduce a maximum tax deduction of \$12,000 for voluntary MPF contributions;
- ~~(j)~~(k) to prompt the Labour Advisory Board to conduct discussions on the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments;
- ~~(k)~~(l) to enhance the regulation of MPF Scheme intermediaries; and
- ~~(l)~~(m) to step up law enforcement and increase penalties to combat the situation of default in contributions,

with a view to achieving the aims of lowering fees, increasing employees' choices for investment and perfecting the regulatory mechanism.

Note: Hon CHAN Kin-por's amendment is marked in *bold and italic type* or with deletion line.

4. Motion as amended by Hon James TO

That, ~~given that~~ *some members of the public are dissatisfied with* the Mandatory Provident Fund ('MPF') Scheme, *and as the MPF Scheme* has already been implemented for over 10 years and the various social sectors have put forward many proposals for improving the Scheme, this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme; the relevant review should include:

- (a) to expeditiously implement a full portability arrangement for the MPF Scheme;
- (b) to adopt effective measures to *ensure that the MPF service market has sufficient competition and the automatic adjustment mechanism of the market can achieve its function, so that market competition can* press MPF Scheme trustees to lower their fees *and continue to enhance their services; and in case market competition fails to press MPF Scheme trustees to lower their fees, the Government should immediately examine other means,* such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and ~~to require~~ *requiring* MPF Scheme trustees to collect fixed administration fees to replace the practice of collecting such fees at fixed percentages of the total asset values of MPF accounts;
- (c) to require MPF Scheme trustees to provide contributors with *more types of fund options, and to examine other new forms of funds, such as* products resembling bank deposits that charge no management fees;
- (d) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- (e) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned;
- (f) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees' compensation insurance;

- (g) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- (h) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- (i) to introduce a maximum tax deduction of ~~\$12,000~~ ***\$20,000*** for voluntary MPF contributions;
- (j) to prompt the Labour Advisory Board to conduct discussions on the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments;
- (k) to enhance the regulation of MPF Scheme intermediaries; and
- (l) to step up law enforcement and increase penalties to combat the situation of default in contributions,

with a view to achieving the aims of lowering fees, increasing employees' choices for investment and perfecting the regulatory mechanism.

Note: Hon James TO's amendment is marked in ***bold and italic type*** or with deletion line.

5. Motion as amended by Hon LI Fung-ying

That, ~~given that~~ ***in response to the strong social aspirations for the setting up of universal retirement protection, and as the needs arising from population ageing in society still cannot be resolved even though*** the Mandatory Provident Fund ('MPF') Scheme has ~~already~~ been implemented for over 10 years ~~and the various social sectors have put forward many proposals for improving the Scheme,~~ this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme; the relevant review should include:

- (a) ***to link the MPF Scheme with age rather than employment, with the Government making the minimum MPF contribution for persons in the labour force who are neither in employment nor engaged in full-time studies;***

- (a)(b) to expeditiously implement a full portability arrangement for the MPF Scheme;
- (b)(c) to adopt effective measures to press MPF Scheme trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require MPF Scheme trustees to collect fixed administration fees to replace the practice of collecting such fees at fixed percentages of the total asset values of MPF accounts;
- (c)(d) to require MPF Scheme trustees to provide contributors with products resembling bank deposits that charge no management fees;
- (d)(e) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- (e)(f) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned;
- (f)(g) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees' compensation insurance;
- (g)(h) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- (h)(i) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- (i)(j) to introduce a ~~maximum tax deduction of \$12,000~~ **tax allowance** for voluntary MPF contributions, ***in an amount equal to that of mandatory MPF contributions***;
- (j)(k) to ~~prompt the Labour Advisory Board to conduct discussions on~~ **abolish** the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments;
- (k)(l) to enhance the regulation of MPF Scheme intermediaries; and

(4)(m) to step up law enforcement and increase penalties to combat the situation of default in contributions,

with a view to achieving the aims of lowering fees, increasing employees' choices for investment ~~and~~, perfecting the regulatory mechanism ***and coping with population ageing in society.***

Note: Hon LI Fung-ying's amendment is marked in ***bold and italic type*** or with deletion line.

6. Motion as amended by Hon Alan LEONG

That, given that the Mandatory Provident Fund ('MPF') Scheme has already been implemented for over 10 years and the various social sectors have put forward many proposals for improving the Scheme ***as one of the pillars of retirement protection for the public***, this Council considers that the authorities must conduct a comprehensive review of the MPF Scheme ***and the social functions and effects it can achieve***; the relevant review should include:

- (a) to expeditiously implement a full portability arrangement for the MPF Scheme;
- (b) to adopt effective measures to press MPF Scheme trustees to lower their fees, such as enacting legislation to specify fee ceilings for different types of investment funds and fee types, and to require MPF Scheme trustees to collect fixed administration fees to replace the practice of collecting such fees at fixed percentages of the total asset values of MPF accounts;
- (c) to require MPF Scheme trustees to provide contributors with products resembling bank deposits that charge no management fees;
- (d) to introduce two additional fund products operated by the Government at low management fees, and linked respectively to Exchange Fund returns and inflation rates;
- (e) to enact legislation to require MPF Scheme trustees to set out the actual amounts of fees in the annual reports of the years concerned;
- (f) to obtain the operating costs data of MPF Scheme trustees and formulate measures to regulate trustees by making reference to the form of regulation of employees' compensation insurance;

- (g) to allow MPF Scheme contributors with exceptional reasons (such as critical illness) to apply for suspension of contributions or partial withdrawal of their MPF accrued benefits, so as to meet urgent needs;
- (h) to allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65;
- (i) to introduce a maximum tax deduction of \$12,000 for voluntary MPF contributions;
- (j) to prompt the Labour Advisory Board to conduct discussions on the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments;
- (k) to enhance the regulation of MPF Scheme intermediaries; ~~and~~
- (l) to step up law enforcement and increase penalties to combat the situation of default in contributions; *and*
- (m) *to comprehensively consult the community to ascertain the inadequacies of the MPF Scheme and how retirement protection can be effectively offered to all elderly persons, so as to prepare for the population ageing of Hong Kong,*

with a view to achieving the aims of lowering fees, increasing employees' choices for investment and perfecting the regulatory mechanism.

Note: Hon Alan LEONG's amendment is marked in *bold and italic type* or with deletion line.