

立法會
Legislative Council

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Panel on Financial Affairs

Meeting on 5 May 2014

**Background brief on
Mandatory Provident Fund Schemes (Amendment) Bill 2014**

Purpose

1. This paper provides background information on the Mandatory Provident Fund Schemes (Amendment) Bill 2014 ("the Bill"), and summarizes the major concerns and views expressed by Members on related issues during relevant discussions at meetings of the Legislative Council ("LegCo") and its committees since 2010.

Withdrawal of the Mandatory Provident Fund benefits

Current withdrawal requirements

2. The regulation of withdrawal of Mandatory Provident Fund ("MPF") benefits is set out in section 15 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") and Part XIII of the Mandatory Provident Fund Schemes General Regulation. Section 15(1) of MPFSO provides that a member of a MPF scheme who has attained the retirement age shall be entitled to be paid by the approved trustee of the scheme his/her entire accrued benefits in a lump sum. Retirement age is defined in section 2 of MPFSO to mean, in relation to an employee or self-employed person, 65 years of age.

3. In recognition of special circumstances justifying earlier withdrawal, the law also allows withdrawal of MPF benefits by scheme members in limited circumstances, i.e. early retirement at the age of 60, permanent departure from Hong Kong, death, total incapacity, or small balance account.

4. As regards payment of benefits derived from voluntary contributions, it is governed by the governing rules of the MPF scheme concerned, which generally provide more flexibility in withdrawal, and are not subject to the withdrawal restrictions in the MPF legislation.

Public consultation on proposals to increase the flexibility of withdrawal of MPF benefits

5. In 2011, the Mandatory Provident Fund Schemes Authority ("MPFA") set up a working group to review the regulation of withdrawal of MPF benefits derived from mandatory contributions, including the modes of payment of MPF benefits on retirement as well as the grounds for early withdrawal of MPF benefits. In conducting the review, MPFA has studied the schemes governing withdrawal of benefits in Australia, Chile and Singapore in detail.

6. In December 2011, MPFA launched a three-month public consultation on the proposals to increase the flexibility of withdrawal of MPF benefits. The consultation conclusions were released in September 2012. In light of respondents' support for the proposals in the Consultation Paper, MPFA put forward recommendations to the Government to amend MPFSO to allow a scheme member to –

- (a) withdraw his/her MPF benefits in a lump sum or in stages on attainment of retirement age or satisfaction of early retirement withdrawal criteria, and that MPFA be empowered to prescribe minimum standards (e.g. in terms of withdrawal frequency/amount) in relation to voluntary staged withdrawal arrangements; and
- (b) withdraw all of his/her MPF benefits early (before attaining retirement age) on obtaining a medical certificate that the person is suffering from a qualifying condition. A qualifying condition would be defined in the law as relating to an illness that is life endangering, such that the remaining life expectancy of the member is reduced to 12 months or less from the date of certificate.

Reduction of MPF fees

MPFA's measures to lower MPF fees

7. A number of fees items are incurred in the operation of a MPF scheme. The major components are –

- (a) *Scheme administration cost*: expenditure incurred by trustees in performing MPF administration functions, e.g. general administration, member support and contributions handling;
- (b) *Investment management fee*: charges by investment managers for managing MPF funds; and
- (c) *Other expenditure* (e.g. scheme sponsor fees, trustee profits, rebates to scheme members).

8. Since implementation of the MPF system in 2000, there have been comments and criticisms from the public about the high level of fees. In 2004, MPFA introduced the fund expense ratio ("FER") to provide a single indicator disclosed for all MPF funds, aggregating fees and other expenses charged to MPF funds and underlying investments. The Employee Choice Arrangement ("ECA") which allows partial portability of MPF accrued benefits was implemented from 1 November 2012. The arrangement has facilitated market competition and created room for MPF fees reduction.

9. In December 2011, MPFA engaged an independent consultancy firm to conduct a detailed study on the costs incurred by trustees in performing different MPF scheme administration functions ("the Cost Study"). The Cost Study has identified a number of factors contributing to the higher administration costs of the MPF system compared with those of selected international pension systems (Australia, Chile, Mexico and the United States), including a higher percentage of manual and paper-based administration processing, process complexity, small scale of assets under management, as well as insufficient industry cooperation and pricing competition. In response to the recommendations in the Cost Study, MPFA has adopted short to medium term measures to drive down MPF fees, including (a) urging trustees to provide various types of low-fee funds for each scheme and to promote these funds; (b) facilitating trustees in further automating and streamlining their administration processes, merging smaller scale or less efficient schemes/funds; (c) facilitating scheme members in consolidating their personal accounts; and (d) promoting index funds in the constituent fund approval process.

10. A list of measures taken by MPFA and relevant legislative amendments enacted to streamline the operation of MPF schemes and reduce MPF fees from 2001 to 2012 is given in **Appendix I**.

11. In connection with the Cost Study, MPFA has also proposed to the Government long-term reform approaches to fundamentally improve the MPF system, with a view to further driving down MPF fees. These proposals include mandating the provision of low-fee funds in MPF schemes,

providing a basic, low-fee, default fund arrangement, capping the fees of MPF funds and introducing a not-for-profit operator to operate a simple and low-fee MPF scheme.

Discussions by Members on related issues

Meetings of the Panel on Financial Affairs and Finance Committee

12. The Administration/MPFA briefed the Panel on Financial Affairs ("FA Panel") on the results of the Cost Study and MPFA's proposed reform directions to lower MPF fees at the meeting on 7 January 2013. Issues relating to reduction of MPF fees were also discussed at meetings of the FA Panel on 28 January 2013 and 29 January 2014, and at special meetings of the Finance Committee on 8 April 2013 and 31 March 2014 for the examination of the Estimates of Expenditure 2013-2014 and 2014-2015 respectively. The major views and concerns expressed by Members at these meetings are summarized in the ensuing paragraphs.

13. Noting that there have been concerns from the community about the high fees and low investment returns of MPF schemes/funds, Members generally supported MPFA's proposed reform directions to improve the MPF system fundamentally and lower MPF fees and agreed on the need to implement measures to facilitate trustees to streamline their administration processes.

14. There was another view that as the Hong Kong MPF system was still at its initial stage of development, the administration fees would gradually come down to lower levels when the assets had accumulated to a certain level along with more experience and streamlined operations. Attempts should first be made to streamline and automate MPF's administration processes in order to reduce costs, thus driving fees down. Only when such attempts were to no avail should other options such as fee control measures be considered.

15. As regards the estimated timeframe for achieving substantial reduction in MPF fees and setting indicators (e.g. FER) to assess the effectiveness of industry's efforts in lowering fees and the need to take forward other measures such as introducing fee caps, the Administration responded that given the complexity of the existing MPF system, it would take time for the measures to streamline MPF's operation to take effect and it would be difficult to predict when MPF fees could be reduced. Nevertheless, the Administration envisaged that full implementation of the recommended measures in the Costs Study would result in further reduction

of MPF fees. The Administration and MPFA would continue to observe the changes in the average FER in monitoring the developments.

16. As some of the reform proposals to reduce MPF fees might entail statutory requirements to improve governance and transparency of the MPF system, or to enhance MPFA's powers (e.g. approval for MPF funds), some Members urged that the Administration should ensure that the relevant initiatives would not result in over-regulation of the insurance industry, and conduct thorough consultation with the industry before taking forward the relevant proposals.

Council meetings

17. At the Council meeting of 1 December 2010, Members passed a motion on "Comprehensively reviewing the Mandatory Provident Fund Scheme" which urged the Government to review the MPF Scheme covering aspects including to lower MPF management and administration fees, allow full portability of MPF benefits, and implement universal retirement protection, etc. Another motion on "Comprehensively reforming the Mandatory Provident Fund Scheme" was passed at the Council meeting of 2 November 2011 urging the Government to conduct a comprehensive review of the MPF Scheme and examine the feasibility and impact of measures, including to allow MPF Scheme contributors with exceptional reasons to suspend contributions or withdraw part of their MPF benefits, allow retirees to withdraw their MPF accrued benefits by instalments after the age of 65, implement a full portability arrangement for the MPF Scheme, streamline the management and administrative procedures to reduce the operating costs of MPF, press MPF Scheme trustees to lower their fees, and introduce fund products operated by the Government at low management fees, etc.

18. During the debates of the above two motions, some Members suggested that the MPF system should allow withdrawal of contributions by scheme members at suitable time to suit their urgent needs as long as it was subject to proper regulation. They considered that such arrangements, which were already in place in other jurisdictions with provident fund or retirement fund systems, would be humane and allowed more choices for MPF scheme members. Some other members were of the view that the suggestion could not solve the major problems associated with the MPF system, including the low MPF investment return for retirement protection and the arrangement for offsetting severance payment/long service payment against MPF accrued benefits.

Latest Development

19. The Administration plans to introduce the Bill into LegCo in July 2014 to implement MPFA's proposals in paragraph 6(a) and (b) above, and to simplify certain regulatory procedures and requirements applicable to trustees to provide greater scope for MPF fee reduction by trustees. The Administration will brief the FA Panel on the Bill at the meeting on 5 May 2014.

Relevant papers

20. A list of relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
2 May 2014

Measures by the Mandatory Provident Fund Schemes Authority ("MPFA") and Legislative Amendments to Reduce Fees

| <u>Year</u> | <u>Details</u> |
|------------------|---|
| Aug 2001 | <ul style="list-style-type: none"> Established Mandatory Provident Fund ("MPF") Schemes Operation Review Committee to identify particularly measures for streamlining the operation of MPF schemes, and propose legislative amendments |
| Feb and Jul 2002 | <ul style="list-style-type: none"> Legislative amendments for streamlining the operation of MPF schemes enacted |
| Jun 2004 | <ul style="list-style-type: none"> Issued the "Code of Disclosure for MPF Investment Funds" to improve disclosure of fees and charges of MPF funds |
| 2007 | <ul style="list-style-type: none"> Started urging trustees to lower fees and introduce low fee funds |
| Jul 2007 | <ul style="list-style-type: none"> Launched Phase I of the MPF Fee Comparative Platform |
| Jan 2008 | <ul style="list-style-type: none"> Legislative amendments for further streamlining the operation of MPF schemes enacted |
| Oct 2008 | <ul style="list-style-type: none"> Launched Phase II of the MPF Fee Comparative Platform |
| Jul 2009 | <ul style="list-style-type: none"> Legislative amendments for Employee Choice Arrangement ("ECA") enacted |
| Sep 2009 | <ul style="list-style-type: none"> Required trustees to enhance disclosure in relation to Annual Benefit Statements in order to increase transparency and promote competition |
| Sep 2012 | <ul style="list-style-type: none"> Launched the Trustee Service Comparative Platform |
| Nov 2012 | <ul style="list-style-type: none"> ECA commenced operation Launched Electronic Portability Automation Services System ("ePASS") to facilitate ECA Announced results of Consultancy Study on Administration Costs of MPF Trustees |

[Source: Annex A of the paper provided by MPFA for the meeting of the Panel on Financial Affairs on 7 January 2013 (LC Paper No. CB(1)358/12-13(09))]

Appendix II

List of relevant papers

| Date | Event | Paper/Minutes of meeting |
|------------------|--|---|
| 11 November 2009 | Council meeting | Written question raised by Hon Federick FUNG on "Review of the Mandatory Provident Fund Scheme" Hansard (pages 152 – 155) |
| 1 December 2010 | Council meeting | Motion on "Comprehensively reviewing the Mandatory Provident Fund Scheme" moved by Hon WONG Kwok-kin Hansard (pages 136 – 234) |
| 2 November 2011 | Council meeting | Motion on "Comprehensively reforming the Mandatory Provident Fund Scheme" moved by Hon TAM Yiu-chung Hansard (pages 251 – 319) |
| December 2011 | Mandatory Provident Fund Schemes Authority ("MPFA") launched public consultation on withdrawal of MPF benefits | Consultation paper |
| September 2012 | MPFA published consultation conclusions on withdrawal of MPF benefits | Consultation conclusions |
| 6 June 2012 | Council meeting | Written question raised by Hon Paul TSE on "Charging rates of Mandatory Provident Fund Schemes" Hansard (pages 140 – 143) |

| Date | Event | Paper/Minutes of meeting |
|-----------------|---|--|
| 7 January 2013 | Meeting of the Panel on Financial Affairs ("FA Panel") | <p>Administration's paper (LC Paper No. CB(1)358/12-13(03))</p> <p>MPFA's paper (LC Paper No. CB(1)358/12-13(09))</p> <p>Minutes (LC Paper No. CB(1)782/12-13) (paragraphs 16 to 45)</p> |
| 28 January 2013 | Meeting of the FA Panel | <p>Minutes (LC Paper No. CB(1)1403/12-13) (paragraphs 21 to 22)</p> |
| 8 April 2013 | Special meeting of Finance Committee ("FC") for examination of Estimates of Expenditure 2013-2014 | <p>Written questions raised by Members and Administration's replies for the session on "Financial Services" (Reply serial numbers: FSTB(FS)019, 046, 072, 088, 113 and 149)</p> <p>Minutes (paragraphs 3.4-3.5)</p> |
| 6 November 2013 | Council meeting | <p>Written question raised by Hon CHAN Kin-por on "Measures to improve MPF Scheme"</p> <p>Hansard (pages 100 – 104)</p> |
| 31 March 2014 | Special meeting of FC to examine the Estimates of Expenditure 2014-2015 | <p>Written questions raised by Members and Administration's replies for the session on "Financial Services" (Reply serial numbers: FSTB(FS)008, 009 and 045)</p> |