

**For discussion
on 6 February 2017**

Legislative Council Panel on Financial Affairs

**Charging Mandatory Provident Fund Intermediaries
Registration, Approval and Annual Fees and
Revision of Fees in relation to Occupational Retirement Schemes**

PURPOSE

This paper seeks Members' views on the proposed fees relating to the regulation of Mandatory Provident Fund ("MPF") intermediaries ("MPF-i fees") and the supervision of occupational retirement schemes ("ORSO schemes")¹.

BACKGROUND AND JUSTIFICATIONS

2. The Mandatory Provident Fund Schemes Authority ("MPFA") implemented the statutory regulatory regime for MPF intermediaries following the enactment of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2012 ("Amendment Ordinance") in November 2012. The Amendment Ordinance empowers the MPFA to charge MPF intermediaries

¹ They include –

- (i) ORSO schemes which are registered under the Occupational Retirement Schemes Ordinance (Cap 426) ("ORSO") ("ORSO registered schemes"). They are retirement schemes set up voluntarily by employers prior to the launch of the MPF System to provide retirement benefits for their employees;
- (ii) ORSO schemes exempted under the ORSO ("ORSO exempted schemes") which are retirement schemes set up voluntarily by employers and are exempted from the majority of the statutory requirements under the ORSO. These schemes are exempted either because they are offshore schemes registered or approved by an overseas authority, or that not more than 10% or 50 of the schemes' members are Hong Kong permanent identity card holders; and
- (iii) ORSO registered schemes which are exempted from the statutory requirements under the Mandatory Provident Fund Schemes Ordinance (Cap 485) ("MPF exempted ORSO registered schemes"). Members of these schemes are exempted from joining an MPF scheme because this type of ORSO schemes is akin to an MPF scheme in nature.

registration, approval and annual fees to cover the regulatory costs but the MPFA proposed not to charge the fees in the initial years of implementing the new regulatory regime. During the scrutiny of the legislation, the Legislative Council (“LegCo”) supported the proposal in general though some LegCo Members doubted if a fee holiday was necessary. The regulatory regime for MPF intermediaries has been implemented smoothly and MPF intermediaries have already enjoyed a fee holiday for four years. The MPFA considers it appropriate to start charging the MPF-i fees.

3. Separately, the fees relating to the supervision of ORSO registered schemes and ORSO exempted schemes have remained unchanged since October 1993, while the fees related to the supervision of MPF exempted ORSO registered schemes have not been updated since August 1999. The existing levels of these fees cannot reflect the current costs borne by the MPFA in processing the relevant applications and annual returns as well as in conducting the relevant supervisory work.

PROPOSED FEE LEVELS

4. The proposed fee levels at Annex are based on the cost-recovery principle. There are two kinds of MPF intermediaries, namely, Principal Intermediaries (“PIs”) which are companies, and Subsidiary Intermediaries (“SIs”) which are individuals or insurance agency companies². Furthermore, PIs have to appoint a Responsible Officer (“RO”) who has to be registered with the MPFA. Noting that many PIs are small and medium-sized insurance brokers, we propose to set the fees initially at 60% of the relevant costs to reduce the cost burden on small and medium-sized enterprises (“SMEs”). The MPFA plans to review the MPF-i fees levels in five years’ time with a view to bringing them progressively to appropriate levels. The MPFA will also regularly review the costs of the fees relating to ORSO schemes and submit fee revision proposals as and when necessary. The MPFA proposes to charge the new fees with effect from 1 January 2018.

² As defined under the Amendment Ordinance, an SI is a “Type B regulatee” which can be in the form of an individual or an insurance agency company.

INDUSTRY CONSULTATION AND IMPLICATIONS

5. The MPFA consulted industry bodies on the proposed fees from October 2016 to January 2017. In general, the industry suggests that the fees should be set a reasonable level, taking into account that many PIs are SMEs. As explained in paragraph 4 above, we have taken into consideration the industry's views when finalising the fee proposal.

6. Separately, employers providing ORSO schemes do not have any adverse comments on the proposed fee revision.

7. The fee proposal will bring an estimated additional annual revenue of \$11.17 million to the MPFA starting from January 2018.

NEXT STEP

8. To give effect to the fee proposal, we need to amend the Mandatory Provident Fund Schemes (Fees) Regulation (Cap 485C) ("Fees Regulation") and the Occupational Retirement Schemes (Fees) Rules (Cap 426D) ("Fees Rules"). Amendments to the Fees Regulation are subject to positive vetting whereas those to the Fees Rules are subject to negative vetting by LegCo.

ADVICE SOUGHT

9. Members are invited to comment on the fee proposal at [Annex](#). Subject to Members' advice, the Government and the MPFA will proceed with the necessary legislative amendments within the 2016-17 legislative session.

Financial Services and the Treasury Bureau
January 2017

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(I) Proposed MPF-i Fees under Schedule 1 to the Fees Regulation

- The MPF-i fees are to be charged for the first time and the proposed levels of fees are set at 60% of the relevant costs.
- The following are the proposed fees and their respective levels –

Relevant Section of Cap 485	Fee Description	Relevant Cost	Proposed Fee³	Estimated No. of Applications Received⁴	Estimated Annual Income
(i) Registration / Approval Fees					
34T	Registration of PI	\$3,894	\$2,340	21	\$49,140
34U	Registration of SI	\$483	\$290	4 905	\$1,422,450
34V	Approval of Attachment by SI to PI	\$203	\$130	1 632	\$212,160
34W	Approval of Responsible Officer	\$1,093	\$660	79	\$52,140

³ The “proposed fee” represents 60% of the “relevant cost”, rounded up to the nearest \$10.

⁴ Average number of applications received annually by the MPFA and average number of registered MPF intermediaries in the past three financial years, i.e. 2013/14 to 2015/16.

(ii) Annual Fee					
34ZN	PI	\$2,381	\$1,430	392	\$560,560
34ZN	SI	\$295	\$180	32 387	\$5,829,660
				Total	\$8,126,110

(II) Proposed Fees in relation to ORSO Registered Schemes and ORSO Exempted Schemes under the Schedule to the Fees Rules

Relevant Section of Cap 426	Fee Description	Existing Fee	Proposed Fee	Proposed Increase	No. of Applications Received⁵	Estimated Additional Annual Income
6(4)	Inspection of a record of an ORSO scheme in the public register	\$10	\$20	\$10	5	\$50
6(5)	A certified copy of a record of an ORSO scheme in the public register	\$110	\$160	\$50	4	\$200
7 [^]	Application for an exemption certificate of an ORSO scheme	\$600	\$940	\$340	20	\$6,800
9(1) [^]	Annual fee for an exemption certificate of an ORSO exempted scheme	\$600	\$940	\$340	761	\$258,740
15*	Registration of an ORSO scheme which participates in a pooling agreement	\$1,200	\$1,800	\$600	23	\$13,800

⁵ Average number of applications received annually by the MPFA and average number of ORSO schemes in the past three financial years, i.e. 2013/14 to 2015/16.

Relevant Section of Cap 426	Fee Description	Existing Fee	Proposed Fee	Proposed Increase	No. of Applications Received⁵	Estimated Additional Annual Income
15*	Registration of an ORSO scheme which does not participate in a pooling agreement	\$2,400	\$3,700	\$1,300	16	\$20,800
28(1)*	Annual fee of an ORSO registered scheme which participates in a pooling agreement	\$1,200	\$1,800	\$600	3 686	\$2,211,600
28(1)*	Annual fee of an ORSO registered scheme which does not participate in a pooling agreement	\$2,400	\$3,700	\$1,300	395	\$513,500
Total						\$3,025,490

- Fees marked with an asterisk (*) are only applicable to ORSO registered schemes, while those marked with a caret (^) are only applicable to ORSO exempted schemes.

(III) Proposed Fees in relation to MPF Exempted ORSO Registered Schemes under Schedule 3 to the Fees Regulations

Relevant Section of Cap 485B	Fee Description	Existing Fee	Proposed Fee	Proposed Increase	No. of Applications Received⁶	Estimated Additional Annual Income
16	Application for an MPF exemption certificate in respect of an ORSO registered scheme which participates in a pooling agreement	\$1,200	\$1,800	\$600	10	\$6,000
16	Application for an MPF exemption certificate in respect of an ORSO registered scheme which does not participate in a pooling agreement	\$2,400	\$3,700	\$1,300	2	\$2,600
7 of Schedule 3	Application for approval to the appointment of a company as the trustee of a scheme where the company is not incorporated in Hong Kong but is comparable to a registered trust company and has a significant presence and control in Hong Kong	\$11,250	\$11,800	\$550	2	\$1,100

⁶ Average number of applications received annually by the MPFA in the past three financial years, i.e. 2013/14 to 2015/16.

Relevant Section of Cap 485B	Fee Description	Existing Fee	Proposed Fee	Proposed Increase	No. of Applications Received⁶	Estimated Additional Annual Income
7 of Schedule 3	Application for approval to the appointment of a natural person as the trustee of a scheme; or for approval to the appointment of a director of a trustee of a scheme where – (i) the trustee is incorporated in Hong Kong but is not a registered trust company; or (ii) the trustee is incorporated outside Hong Kong but is not comparable to a registered trust company and/or has no significant presence or control in Hong Kong	\$4,900	\$5,100	\$200	29	\$5,800
					Total	\$15,500