

# 破產欠薪保障基金委員會

週年報告

2016-17



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## 主席序言

我謹此發表破產欠薪保障基金委員會（委員會）二零一六年四月一日至二零一七年三月三十一日（本年度）的週年報告。

在本年度，受惠於香港整體經濟的溫和增長，我欣悉因公司結業而被僱主拖欠薪金及其他法定補償，須向破產欠薪保障基金（基金）提出申請的僱員略有減少。年度內，基金共接獲3 114宗申請，較上年度的3 569宗減少13%；此外，基金共批核2 399宗申請，合共發放8,080萬元特惠款項，較上年度分別減少24%及增加19%<sup>1</sup>。期間，委員會及勞工處薪酬保障科的同事繼續積極發揮基金作為安全網的角色，為那些受僱主因無力償債而倒閉所影響的僱員提供適切的援助。

委員會的法定職能包括管理基金及就商業登記證的徵費率向行政長官提出建議（有關徵費為基金的主要資金來源），為此，委員會一直密切監察基金的財政情況。在本年度，基金錄得盈餘3億1,250萬元，而截至二零一七年三月底，基金的累積盈餘為45億9,060萬元。

終審法院於二零一六年五月十七日就一宗有關基金的遣散費特惠款項計算方法的司法覆核案件作出裁決，推翻高等法院原訟法庭及上訴法庭先前的判決，裁定申請人上訴得直。委員會尊重終審法院的裁決。自終審法院頒布裁決後，勞工處已即時按照終審法院裁決的方法計算基金的遣散費特惠款項。另一方面，如過往的申請人向委員會提出申索，委員會會以符合終審法院就有關法例的詮釋，並按每宗申索個案的個別情況及申索人所提供的有關資料處理。截至二零一七年三月底，委員會共接獲667宗差額申索個案，並已處理488宗個案，當中365名申索人獲支付有關差額。

<sup>1</sup> 此資料不包括遣散費特惠款項差額的申索。

我們為受僱主結業影響的僱員提供迅速援助的同時，亦須防止基金被濫用。由勞工處、警務處商業罪案調查科、破產管理署及法律援助署代表組成的跨部門專責小組，繼續竭力就懷疑濫用基金的個案作出主動調查及跟進。透過各有關政府部門的通力合作，向公眾顯示政府絕對不容許基金被濫用。

在本年度，我欣見各委員積極參與，給予寶貴意見，並盡心盡力一同承擔管理基金的重任，我在此向他們衷心致謝。我們會繼續努力不懈，致力為申請人提供適切的援助。最後，我謹代表委員會多謝勞工處、法律援助署、破產管理署、警務處及稅務局等合作伙伴繼續給予委員會的支持，維持基金的有效運作，為社會作出貢獻。

破產欠薪保障基金委員會主席  
黃友嘉博士，GBS, JP

二零一七年九月

# 二零一六至一七年度 破產欠薪保障基金委員會成員名單

## 主席

黃友嘉博士，GBS, JP

## 委員

### 僱員代表

潘兆平議員，BBS, MH

梁芳遠女士

朱賢昌先生

### 僱主代表

蔡關穎琴女士，MH, JP

馮孝忠先生，BBS, JP

高朗先生

### 政府部門代表

勞工處助理處長（負責欠薪保障事宜）

破產管理署助理署長

法律援助署助理首席法律援助律師（負責處理破產事宜）

## 秘書

勞工處薪酬保障科高級勞工事務主任





## 引言

《破產欠薪保障條例》於一九八五年四月十九日實施，該條例規定設立一個委員會以管理破產欠薪保障基金（基金），並授權勞工處處長在僱主無力清償債務時，從基金發放特惠款項給其僱員。

本年報詳述截至二零一七年三月三十一日止的財政年度內，破產欠薪保障基金委員會（委員會）的工作及基金的運作事宜。

## 破產欠薪保障基金委員會

《破產欠薪保障條例》規定委員會由一名主席及不超過十名委員組成，全部委員均由行政長官委任。僱主及僱員代表的委員人數必須相等，而公職人員則不得超過四名。

委員會的法定職能如下：

- (a) 管理基金；
- (b) 就商業登記證的徵費率向行政長官提出建議；及
- (c) 如有申請人不滿勞工處處長就申請發放特惠款項一事所作出的決定，委員會會根據申請人的要求，覆核其申請。

## 破產欠薪保障基金

基金的資金主要來自按每張商業登記證收取的徵費。該筆徵費由稅務局在有關機構繳交商業登記費時一併收取。

根據《破產欠薪保障條例》，僱員如遭無力清償債務的僱主拖欠工資、代通知金、遣散費、未放年假薪酬及 / 或未放法定假日薪酬，可向基金申請特惠款項。申請人須以認可的表格提出申請，並就申請作出法定聲明。申請人並須在其服務的最後一天起計的六個月內提出申請。

## 基金發放特惠款項的最高限額

基金發放的特惠款項包括：

- (a) 僱員在服務的最後一天之前四個月內為其僱主服務而未獲支付的工資（工資包括報酬、收入及可視作工資的項目，即假日薪酬、年假薪酬、年終酬金、產假薪酬、侍產假薪酬及疾病津貼），付款最高限額為36,000 元；
- (b) 代通知金，付款最高限額為一個月工資或22,500元，兩者以較小的款額為準；
- (c) 僱員根據《僱傭條例》有權得到的遣散費，付款最高限額為50,000元，如有關的遣散費超過50,000元，付款則另加超出有關數額的50%；
- (d) 未放年假薪酬及未放法定假日薪酬，包括(i)僱員根據《僱傭條例》就最後完整假期年累積而仍未放取的有薪年假的薪酬，及如僱員在最後假期年已受僱滿三個月但不足12個月，在僱傭合約被終止時可獲的按比例計算的年假薪酬；以及(ii)僱員在服務的最後一天前的四個月內可享有而未放取的法定假日的薪酬，各自或兩者合共的付款最高限額為10,500元。

## 基金發放特惠款項的先決條件

《破產欠薪保障條例》第16(1)條規定，有針對僱主提出的清盤或破產呈請是基金發放款項的先決條件。根據該條例第18(1)條的規定，勞工處處長可在下述情況下行使酌情權，在無呈請提出的情況下發放款項：

- (a) 僱員人數不足20名；
- (b) 在該個案中有足夠證據支持因下述理由提出呈請 —
  - (i) 如僱主是一間公司，該公司無清償債務能力；或
  - (ii) 如僱主並非公司，有破產呈請可針對該僱主而提出；及
- (c) 就該個案提出呈請是不合理或不符合經濟原則的。

如有僱員因遭拖欠的款項總額少於10,000元而受《破產條例》限制，不能向僱主提出破產呈請，《破產欠薪保障條例》第16(1)(a)(ii)條亦授權勞工處處長從基金撥付特惠款項予該僱員。

《破產欠薪保障條例》授權勞工處處長在基金撥付款項予申請人前須調查其申請。為進行核實的工作，勞工處處長或其授權人員可要求僱主及申請人呈交工資及僱傭紀錄，並會面見他們。

## 基金的代位權

申請人就工資、代通知金、遣散費、未放年假薪酬及 / 或未放法定假日薪酬收到特惠款項後，他在《公司（清盤及雜項條文）條例》或《破產條例》下就這些款項可享有的權益，會轉讓予委員會。委員會在行使該代位權時，可向破產管理署署長或私人清盤人呈交債權證明書，以便在清盤或破產程序進行時，追討已發放給申請人的特惠款項。

## 基金的儲備用途

基金於一九九零年購置了一個作為委員會辦公室的物業。此外，所有現金現正存放在核准的銀行作為定期存款。



## 本年度接獲及處理申請的匯報

現將本年度內基金接獲及處理的申請，連同有關分析，概述如下：

### 已接獲的申請<sup>2</sup>

在二零一六至一七年度，基金接獲僱員的申請共3 114宗，申請的款額達2億6,810萬元，涉及可能無力償債的個案共530宗。申請的詳細統計分析見**附錄一**。

在上述530宗涉及可能無力償債的個案中，有512宗屬於每宗不足20名僱員的個案，另有11宗為每宗涉及20至49名僱員的個案，每宗涉及50至99名僱員的個案共六宗，其餘一宗則涉及100名或以上僱員。

年度內，體育及其他娛樂活動是錄得最多申請數目的行業，申請人數有571人，申請的款額是6,240萬元。接著是零售業，申請人數有427人，申請的款額為3,010萬元。隨後是餐飲服務活動，申請人數有388人，申請的款額為1,260萬元。這三個行業的申請人數佔申請人總數的44.5%，而申請的款額則佔總額的39.2%。

在全年度3 114名申請人中，有2 891人申請欠薪特惠款項，2 220人申請代通知金特惠款項，1 150人申請遣散費特惠款項，以及1 969人申請未放年假薪酬及 / 或未放法定假日薪酬特惠款項。**附錄二、三、四及五**載列這些申請的分項數字。

<sup>2</sup> 此資料不包括遣散費特惠款項差額的申索。

## 已處理的申請

在本年度，獲批准的申請有2 399宗，發放的款項為8,080萬元。在這些申請中，根據《破產欠薪保障條例》第16(1)(a)(ii)條或第18(1)條無須破產或清盤呈請而發放的款額總數為2,640萬元，涉及854名申請人<sup>3</sup>。

有關年度內獲准發放的特惠款項分項數字，載列於**附錄六**。**附錄七**則顯示，87.3%申請欠薪的申請人、97.9%申請代通知金的申請人、66.9%申請遣散費的申請人及43.3%申請未放年假薪酬及 / 或未放法定假日薪酬的申請人，可以獲基金發放全部申請款額。

勞工處處長共拒絕了28宗申請，涉及申請款項共280萬元，主要是由於申請不合法例規定、證據不足、或申請人為公司註冊董事。此外，撤回的申請有446宗，涉及的款額為4,730萬元，其中大部分是因為僱員與其僱主或清盤人已直接達成和解協議<sup>4</sup>。

**附錄八和附錄九**是基金在過去五至十年內的運作比較圖表。

## 破產欠薪保障基金委員會會議

年度內，委員會舉行了四次會議，討論有關管理基金的事宜，其中包括基金的工作和財政報告及收支預算、終審法院就一宗有關遣散費特惠款項計算方法的司法覆核案件裁決前已審批的遣散費特惠款項申請的跟進安排等。委員會並成立了審批遣散費特惠款項差額申索個案的專責工作小組，年度內，工作小組共舉行了四次會議。

<sup>3,4</sup> 此資料不包括遣散費特惠款項差額的申索。

## 破產欠薪保障基金的財政狀況

基金在本年度內的總收入為4億5,130萬元，其中徵費收入為3億8,550萬元，總支出為1億3,880萬元，其中特惠款項支出為8,350萬元。基金錄得3億1,250萬元的盈餘，而上一財政年度的盈餘則為2億2,490萬元。截至二零一七年三月三十一日，基金的累積盈餘為45億9,060萬元。

附錄十載列了截至二零一七年三月三十一日止的年度的獨立核數師報告及審核財務報表。

## 活動概要

### 基金的宣傳和推廣工作

勞工處在本年度繼續推行各類活動，包括在不同地區舉辦六個推廣《僱傭條例》的展覽，當中亦有介紹基金和《破產欠薪保障條例》的規定，和僱員申請基金特惠款項的事宜。



勞工處舉辦展覽中，宣傳基金及《破產欠薪保障條例》。

## 跨部門專責小組的工作成效

跨部門專責小組在防止基金被濫用方面繼續扮演積極角色。勞工處、香港警務處商業罪案調查科、破產管理署及法律援助署合作無間，主動調查及跟進僱主及僱員可能濫用基金的個案。

委員會得悉在二零一六至一七年度，法庭合共取消了十名涉及濫用基金的公司負責人出任董事或參與公司的發起、組成或管理的資格，為期兩年半至四年半。另外，勞工處採取多管齊下的執法策略，以減少欠薪事件惡化而需要向基金申請特惠款項的個案。同期，勞工處錄得違例欠薪被定罪的傳票共有520張，當中涉及公司董事及負責人被定罪的傳票共有154張。



# 附錄





## 破產欠薪保障基金 二零一六至一七年度的運作業績

### IV. 按經濟行業劃分的申請分析

香港標準行業分類	申請人所屬行業	申請人數目 <sup>~</sup>		申請總額 (包括工資、代通知金、遣散費、未放年假薪酬及/或未放法定假日薪酬)
<b>第 B 組</b>	<b>採礦及採石</b>	1	(1)	\$ 508,668.00
<b>第 C 組</b>	<b>製造</b>			
小組				
10	食品的製造	10	(3)	\$ 688,871.82
13	紡織品的製造	52	(12)	\$ 7,689,641.01
14	成衣的製造	1	(1)	\$ 163,729.50
15	皮革及相關製品的製造	10	(2)	\$ 956,913.11
17	紙及紙製品的製造	30	(3)	\$ 2,227,669.78
18	印刷及已儲錄資料媒體的複製	1	(0) <sup>#</sup>	\$ 91,775.24
19	焦煤和精煉石油產品的製造	5	(1)	\$ 528,620.45
22	橡膠及塑膠產品的製造(傢具、玩具、體育用品及文具除外)	8	(4)	\$ 616,998.30
24	基本金屬的製造	1	(1)	\$ 197,455.08
25	金屬製品的製造(機械及設備除外)	1	(1)	\$ 594,539.43
26	電腦、電子及光學產品的製造	31	(3)	\$ 3,112,981.81
27	電器設備的製造	6	(2)	\$ 1,188,287.74
31	傢具的製造	2	(2)	\$ 62,717.60
32	其他製造業	25	(7)	\$ 2,536,289.48
33	機械及設備的維修及安裝	2	(2)	\$ 1,012,840.91
<b>第 E 組</b>	<b>自來水供應；污水處理、廢棄物管理及污染防治活動</b>			
小組				
38	廢棄物的收集、處理及處置活動；資源的回收處理	37	(2)	\$ 1,125,601.05
39	污染防治活動及其他廢棄物處理服務	2	(1)	\$ 460,472.33
<b>第 F 組</b>	<b>建造</b>	350	(98)	\$ 21,567,196.34
<b>第 G 組</b>	<b>進出口貿易、批發及零售業</b>			
小組				
45	進出口貿易	309	(88)	\$ 35,229,743.77
46	批發	18	(4)	\$ 538,547.39
47	零售業	427	(38)	\$ 30,120,375.72

<sup>~</sup> 括號內的數字是本年度接獲涉及可能無力償債個案的數目。

<sup>#</sup> 所有申請人均屬上年度個案的新增申請。

## 破產欠薪保障基金 二零一六至一七年度的運作業績

香港標準行業分類	申請人所屬行業	申請人數目 <sup>~</sup>		申請總額 (包括工資、代通知金、遣散費、未放年假薪酬及/或未放法定假日薪酬)
<b>第 H 組</b>	<b>運輸、倉庫、郵政及速遞服務</b>			
小組				
49	陸路運輸	21	(10)	\$ 1,584,489.24
50	水上運輸	5	(1)	\$ 1,794,887.35
52	貨倉及運輸輔助活動	52	(6)	\$ 2,643,604.87
53	郵政及速遞活動	18	(5)	\$ 830,152.15
<b>第 I 組</b>	<b>住宿及膳食服務活動</b>			
小組				
55	短期住宿活動	12	(1)	\$ 615,176.67
56	餐飲服務活動	388	(80)	\$ 12,611,445.93
<b>第 J 組</b>	<b>資訊及通訊</b>			
小組				
58	出版活動	17	(4)	\$ 775,732.92
59	電影、錄像及電視節目製作活動、錄音及音樂出版活動	4	(1)	\$ 115,000.00
60	節目編製及廣播活動	161	(0) <sup>#</sup>	\$ 31,148,125.05
61	電訊	5	(4)	\$ 1,219,430.02
62	資訊科技服務活動	67	(9)	\$ 6,579,372.75
63	資訊服務活動	3	(2)	\$ 75,362.78
<b>第 K 組</b>	<b>金融及保險活動</b>			
小組				
64	金融服務活動(保險及退休基金除外)	32	(16)	\$ 6,978,679.20
66	金融保險輔助活動	29	(4)	\$ 2,186,392.57
<b>第 L 組</b>	<b>地產活動</b>	10	(4)	\$ 365,143.05
<b>第 M 組</b>	<b>專業、科學及技術活動</b>			
小組				
69	法律及會計活動	7	(2)	\$ 660,306.08
70	總辦事處活動；管理及管理顧問活動	20	(7)	\$ 2,082,300.12
71	建築及工程活動、技術測試及分析	2	(1)	\$ 58,715.25
74	廣告及市場研究	14	(7)	\$ 983,569.56
75	其他專業、科學及技術活動	8	(4)	\$ 1,042,355.09

<sup>~</sup> 括號內的數字是本年度接獲涉及可能無力償債個案的數目。  
<sup>#</sup> 所有申請人均屬上年度個案的新增申請。



## 破產欠薪保障基金 二零一六至一七年度的運作業績

香港標準 行業分類	申請人所屬行業	申請人數目 ~		申請總額 (包括工資、代通知金、 遣散費、未放年假薪酬 及/或未放法定假日薪酬)
<b>第 N 組</b>	<b>行政及支援服務活動</b>			
小組				
77	租賃活動	2	(2)	\$ 185,758.62
78	就業活動	3	(1)	\$ 173,078.41
79	旅行代理、代訂服務及相關活動	111	(15)	\$ 11,521,614.87
80	保安及偵查活動	13	(1)	\$ 231,577.87
81	建築物及園境護理服務活動	79	(1)	\$ 1,313,556.76
82	辦公室行政、辦公室支援及其他 商業支援活動	2	(1)	\$ 638,343.73
<b>第 P 組</b>	<b>教育</b>	27	(10)	\$ 1,062,326.45
<b>第 Q 組</b>	<b>人類保健及社會工作活動</b>			
小組				
86	人類保健活動	14	(10)	\$ 793,665.47
<b>第 R 組</b>	<b>藝術、娛樂及康樂活動</b>			
小組				
90	創作及表演藝術活動	13	(4)	\$ 382,055.93
92	遊樂園及主題樂園活動	1	(1)	\$ 93,944.99
93	體育及其他娛樂活動	571	(5)	\$ 62,415,702.64
<b>第 S 組</b>	<b>其他服務活動</b>			
小組				
95	汽車、電單車、電腦、個人及 家庭用品修理	1	(1)	\$ 16,033.10
96	其他個人服務活動	52	(19)	\$ 3,348,176.67
<b>第 T 組</b>	<b>家庭住戶內部工作活動</b>			
小組				
97	受聘於住戶的家居活動	13	(12)	\$ 348,166.61
98	用以自給的私人家庭商品及 勞務生產活動	8	(3)	\$ 31,240.00
<b>總數：</b>		3 114	(530)	\$ 268,125,418.63

~ 括號內的數字是本年度接獲涉及可能無力償債個案的數目。  
 註： 附錄一所載的資料不包括遣散費特惠款項差額的申索。

## 二零一六至一七年度 欠薪特惠款項申請的分項數字

<b>A. 按款額劃分</b> (包括超時工作工資及可視作工資的收入)		
款額	申請人數目	百分比
無權追討/未有提出申請	223	7.16
8,000 元 <sup>^</sup> 或以下	489	15.70
8,001 元至 18,000 元	816	26.20
18,001 元至 24,000 元	322	10.34
24,001 元至 27,000 元	134	4.30
27,001 元至 30,000 元	107	3.44
30,001 元至 33,000 元	89	2.86
33,001 元至 36,000 元 <sup>+</sup>	85	2.73
36,001 元至 39,000 元	81	2.60
39,000 元以上	768	24.67
<b>總數：</b>	3 114	100.00
<b>B. 按欠薪期劃分</b> (不包括超時工作工資及可視作工資的收入)		
欠薪期	申請人數目	百分比
無權追討/未有提出申請	391	12.56
半個月或少於半個月	338	10.85
超過半個月至 1 個月	527	16.92
超過 1 個月至 2 個月	1 280	41.10
超過 2 個月至 3 個月	318	10.21
超過 3 個月至 4 個月 <sup>+</sup>	94	3.02
超過 4 個月	166	5.34
<b>總數：</b>	3 114	100.00

<sup>^</sup> 《公司(清盤及雜項條文)條例》及《破產條例》就優先債項限額訂明，在清盤 / 破產程序中分配僱主餘下資產時，須在償付其他債項前，優先償付以不超過8,000元為限額的工資。

<sup>+</sup> 《破產欠薪保障條例》所規定的欠薪特惠款項的最高付款限額，為不超過36,000元或四個月的欠薪，兩者以較小的款額為準。

## 二零一六至一七年度 代通知金特惠款項申請的分項數字

A. 按款額劃分		
款額	申請人數目	百分比
無權追討/未有提出申請	894	28.71
2,000元 <sup>‡</sup> 或以下	90	2.89
2,001元至6,000元	473	15.19
6,001元至10,000元	306	9.83
10,001元至15,000元	424	13.62
15,001元至22,500元 <sup>Ⓜ</sup>	388	12.46
22,501元至25,000元	74	2.38
25,000元以上	465	14.92
<b>總數：</b>	3 114	100.00
B. 按通知期劃分		
通知期	申請人數目	百分比
無權追討/未有提出申請	894	28.71
1日至7日	520	16.70
8日至14日	45	1.45
15日	92	2.95
16日至少於1個月	96	3.08
1個月 <sup>‡Ⓜ</sup>	1 376	44.19
超過1個月	91	2.92
<b>總數：</b>	3 114	100.00

<sup>‡</sup> 《公司(清盤及雜項條文)條例》及《破產條例》就優先債項限額訂明，在清盤/破產程序中分配僱主餘下資產時，須在償付其他債項前，優先償付不超過2,000元或一個月工資的代通知金，兩者以較小的款額為準。

<sup>Ⓜ</sup> 《破產欠薪保障條例》所規定的代通知金特惠款項的最高付款限額，為不超過22,500元或一個月工資的代通知金，兩者以較小的款額為準。

## 二零一六至一七年度 遣散費特惠款項<sup>卍</sup>申請的分項數字

A. 按款額劃分		
款額	申請人數目	百分比
無權追討 / 未有提出申請	1 964	63.07
8,000 元 <sup>❖</sup> 或以下	68	2.18
8,001 元至 36,000 元	327	10.50
36,001 元至 50,000 元	154	4.95
50,001 元至 80,000 元	238	7.64
80,001 元至 110,000 元	106	3.40
110,001 元至 140,000 元	68	2.18
140,001 元至 170,000 元	52	1.67
170,001 元至 200,000 元	29	0.93
200,001 元至 250,000 元	50	1.61
250,001 元至 300,000 元	26	0.83
300,001 元至 350,000 元	12	0.39
350,001 元至 370,000 元	4	0.13
370,001 元至 390,000 元	10	0.32
390,000 元以上	6	0.20
<b>總數:</b>	3 114	100.00
B. 按服務年期劃分		
服務年期	申請人數目	百分比
未有提出申請或服務少於 2 年	1 971	63.29
2 至 4.99 年	509	16.35
5 至 5.99 年	93	2.99
6 至 6.99 年	60	1.93
7 至 7.99 年	55	1.77
8 至 8.99 年	58	1.86
9 至 9.99 年	50	1.61
10 至 14.99 年	168	5.39
15 至 19.99 年	82	2.63
20 至 24.99 年	46	1.48
25 至 29.99 年	19	0.61
30 至 34.99 年	2	0.06
35 至 38.99 年	0	0.00
39 至 40.99 年	0	0.00
41 至 42.99 年	1	0.03
43 年及以上	0	0.00
<b>總數:</b>	3 114	100.00

<sup>卍</sup> 破產欠薪保障基金就遣散費特惠款項的最高付款限額為220,000 元。

<sup>❖</sup> 《公司(清盤及雜項條文)條例》及《破產條例》就優先債項限額訂明，在清盤 / 破產程序中分配僱主餘下資產時，須在償付其他債項前，優先償付以不超過8,000元為限額的遣散費。

註： 附錄四所載的資料不包括遣散費特惠款項差額的申索。

## 二零一六至一七年度

## 未放年假薪酬及/或未放法定假日薪酬特惠款項申請的分項數字

A. 按款額劃分		
款額	申請人數目	百分比
無權追討/未有提出申請	1 145	36.77
2,000 元或以下	424	13.62
2,001 元至 4,000 元	406	13.04
4,001 元至 6,000 元	293	9.41
6,001 元至 8,000 元	184	5.91
8,001 元至 10,500 元 <sup>*</sup>	140	4.50
10,501 元至 20,000 元	254	8.16
20,000 元以上	268	8.59
總數:	3 114	100.00
B. 按未放年假薪酬的假期年劃分		
假期年	申請人數目	百分比
無權追討/未有提出申請	1 172	37.64
1 年或少於 1 年	1 189	38.18
超過 1 年至少於 2 年 <sup>*</sup>	481	15.45
2 年或以上	272	8.73
總數:	3 114	100.00
C. 按未放法定假日薪酬涉及的期間劃分		
期間	申請人數目	百分比
無權追討/未有提出申請	2 427	77.94
2 個月或少於 2 個月	179	5.75
超過 2 個月至 4 個月 <sup>*</sup>	111	3.56
超過 4 個月	397	12.75
總數:	3 114	100.00

<sup>\*</sup> 《破產欠薪保障條例》規定的未放年假薪酬及/或未放法定假日薪酬特惠款項的最高付款限額，為不超過最後兩個假期年的未放年假薪酬及/或四個月的未放法定假日薪酬，合共最多 10,500 元。



## 二零一六至一七年度 獲准發放的特惠款項分析

### A. 獲准用以支付欠薪的特惠款項分析

(包括超時工作工資及可視作工資的收入)

款額	申請人數目	百分比
未有提出申請 / 申請不獲批准	199	8.30
4,000 元或以下	245	10.21
4,001 元至 8,000 元	229	9.55
8,001 元至 10,000 元	131	5.46
10,001 元至 12,000 元	140	5.84
12,001 元至 14,000 元	110	4.59
14,001 元至 16,000 元	105	4.38
16,001 元至 18,000 元	93	3.88
18,001 元至 28,000 元	411	17.13
28,001 元至 36,000 元 <sup>⊕</sup>	736	30.66
<b>總數:</b>	2 399	100.00

### B. 獲准用以支付代通知金的特惠款項分析

款額	申請人數目	百分比
未有提出申請 / 申請不獲批准	718	29.93
2,000 元或以下	169	7.04
2,001 元至 3,000 元	121	5.04
3,001 元至 4,000 元	99	4.13
4,001 元至 5,000 元	83	3.46
5,001 元至 6,000 元	66	2.75
6,001 元至 10,000 元	199	8.30
10,001 元至 22,500 元 <sup>†</sup>	944	39.35
<b>總數:</b>	2 399	100.00

<sup>⊕</sup> 破產欠薪保障基金的欠薪特惠款項最高付款限額。

<sup>†</sup> 破產欠薪保障基金的代通知金特惠款項最高付款限額。

## 二零一六至一七年度 獲准發放的特惠款項分析

### C. 獲准用以支付遣散費的特惠款項分析

(不包括遣散費特惠款項差額的申索)

款額	申請人數目	百分比
未有提出申請 / 申請不獲批准	1 749	72.91
8,000 元或以下	261	10.88
8,001 元至 22,000 元	238	9.92
22,001 元至 36,000 元	69	2.88
36,001 元至 50,000 元	26	1.08
50,001 元至 80,000 元	47	1.96
80,001 元至 110,000 元	6	0.25
110,001 元至 140,000 元	2	0.08
140,001 元至 170,000 元	1	0.04
170,001 元至 200,000 元	0	0.00
200,001 元至 210,000 元	0	0.00
210,001 元至 220,000 元 <sup>☆</sup>	0	0.00
<b>總數:</b>	2 399	100.00

### D. 獲准用以支付未放年假薪酬及/或未放法定假日薪酬的特惠款項分析

款額	申請人數目	百分比
未有提出申請 / 申請不獲批准	1 085	45.23
1,000 元或以下	212	8.84
1,001 元至 3,000 元	487	20.30
3,001 元至 5,000 元	239	9.96
5,001 元至 7,000 元	130	5.42
7,001 元至 10,500 元 <sup>♣</sup>	246	10.25
<b>總數:</b>	2 399	100.00

<sup>☆</sup> 破產欠薪保障基金的遣散費特惠款項最高付款限額。

<sup>♣</sup> 破產欠薪保障基金的未放年假薪酬及/或未放法定假日薪酬特惠款項最高付款限額。

## 二零一六至一七年度 獲准發放的特惠款項佔申請人申請款額的百分比分析

### A. 欠薪 (最高付款限額為36,000元)

獲准發放的款額 佔申請人申請款額的百分比	申請人的百分比
100%	87.28
90% 或以上	88.38
80% 或以上	89.72
70% 或以上	90.97
60% 或以上	91.80
50% 或以上	93.05
40% 或以上	94.15
30% 或以上	95.41
20% 或以上	97.10
10% 或以上	98.82
5% 或以上	99.73

### B. 代通知金 (最高付款限額為22,500元)

獲准發放的款額 佔申請人申請款額的百分比	申請人的百分比
100%	97.91
90% 或以上	98.21
80% 或以上	98.51
70% 或以上	98.61
60% 或以上	99.15
50% 或以上	99.40
40% 或以上	99.65
30% 或以上	99.90
20% 或以上	100.00
10% 或以上	100.00

## 二零一六至一七年度 獲准發放的特惠款項佔申請人申請款額的百分比分析

### C. 遣散費 (最高付款限額為50,000元另加餘數的50%)

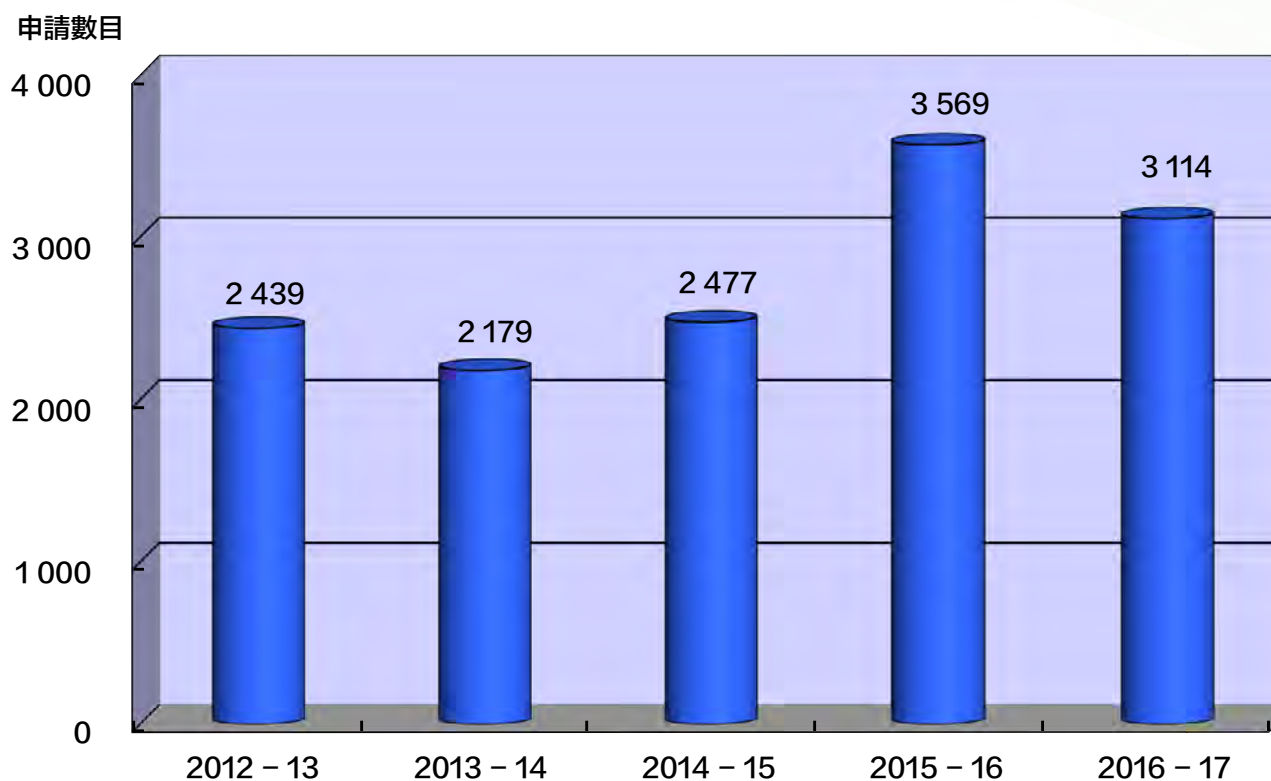
獲准發放的款額 佔申請人申請款額的百分比	申請人的百分比
100%	66.86
90% 或以上	69.52
80% 或以上	74.04
70% 或以上	76.79
60% 或以上	81.12
50% 或以上	84.66

### D. 未放年假薪酬及/或未放法定假日薪酬 (最高付款限額為10,500元)

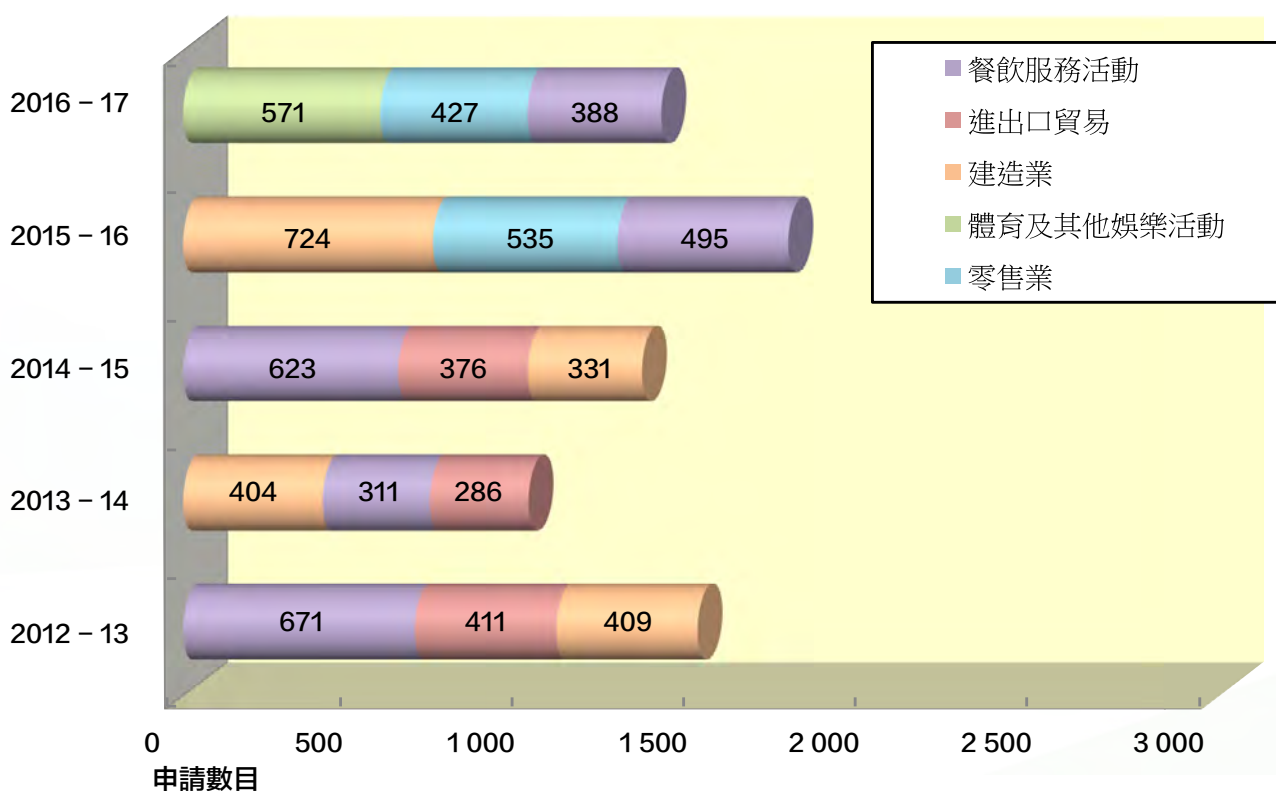
獲准發放的款額 佔申請人申請款額的百分比	申請人的百分比
100%	43.29
90% 或以上	51.79
80% 或以上	59.36
70% 或以上	66.14
60% 或以上	73.77
50% 或以上	82.40
40% 或以上	88.38
30% 或以上	93.49
20% 或以上	97.14
10% 或以上	99.00
5% 或以上	99.67

# 破產欠薪保障基金在二零一二/一三年度至二零一六/一七年度之運作比較圖表

圖一  
二零一二/一三年度至二零一六/一七年度基金接獲的申請數目  
(不包括遣散費特惠款項差額的申索)



圖二  
二零一二/一三年度至二零一六/一七年度基金接獲申請最多的首三個行業  
(不包括遣散費特惠款項差額的申索)

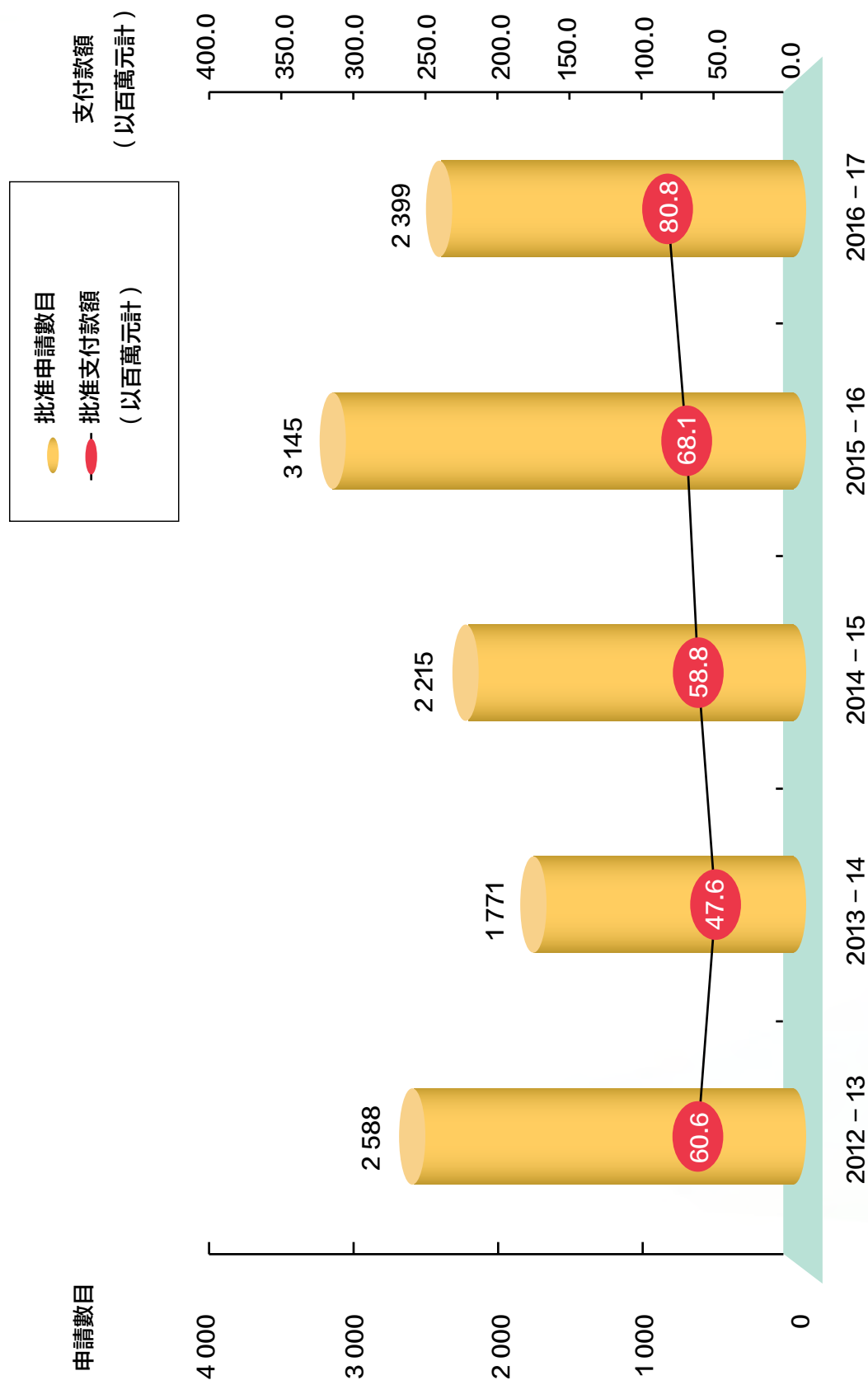




圖三

二零一二/一三年度至二零一六/一七年度基金批准的申請數目及特惠款額

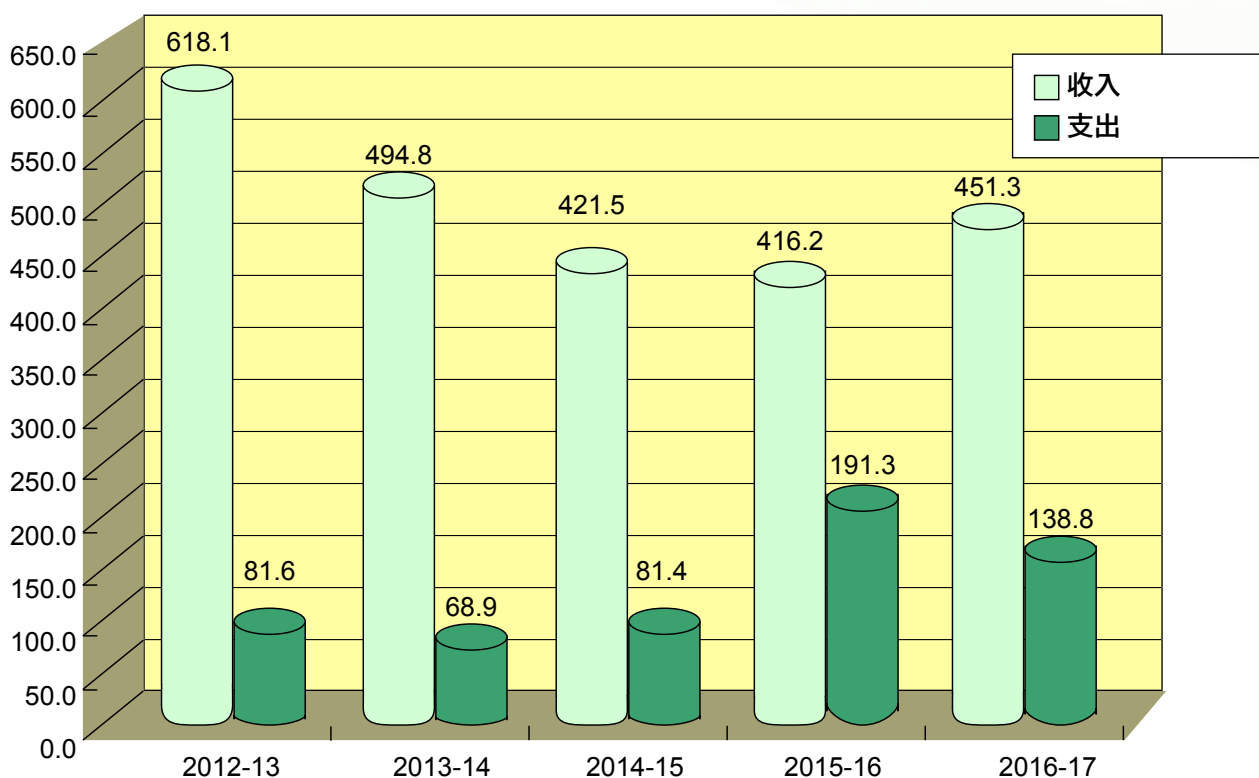
(不包括遺散費特惠款項差額的申索)



圖四

二零一二/一三年度至二零一六/一七年度基金總收入及支出

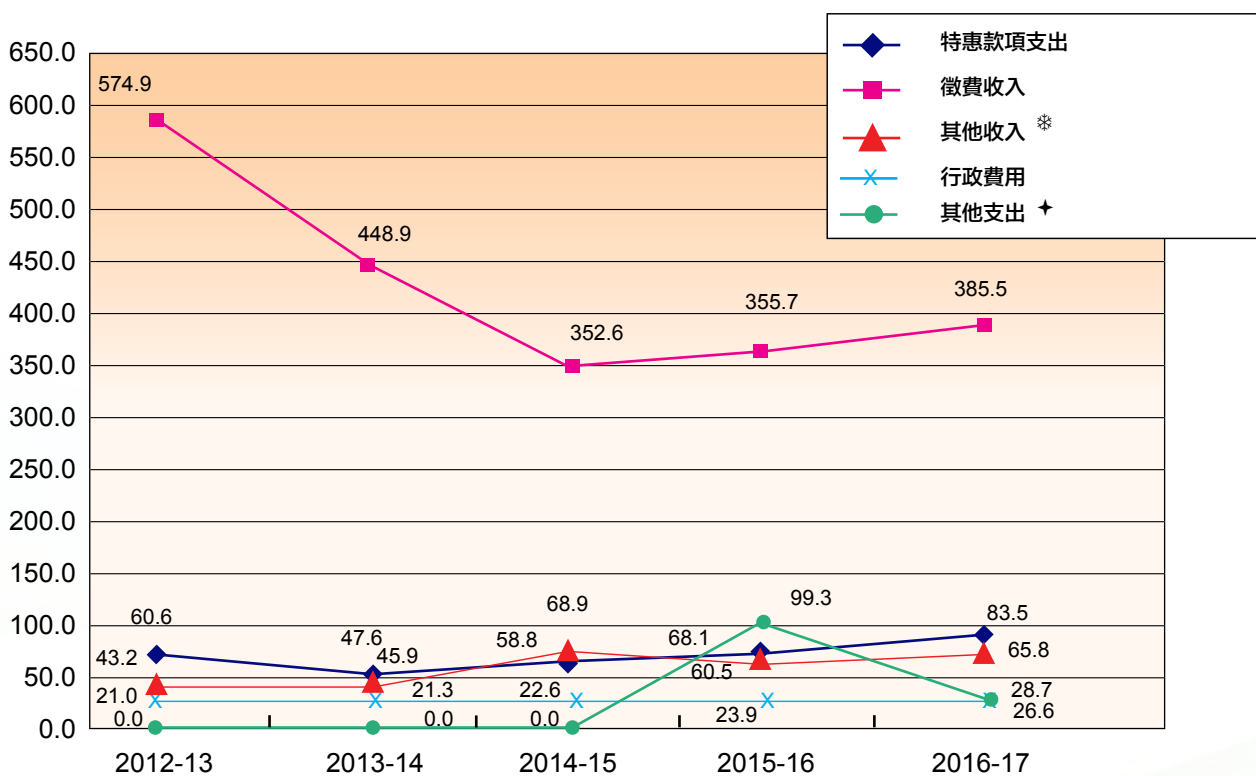
以百萬元計



圖五

二零一二/一三年度至二零一六/一七年度基金收入及支出分析

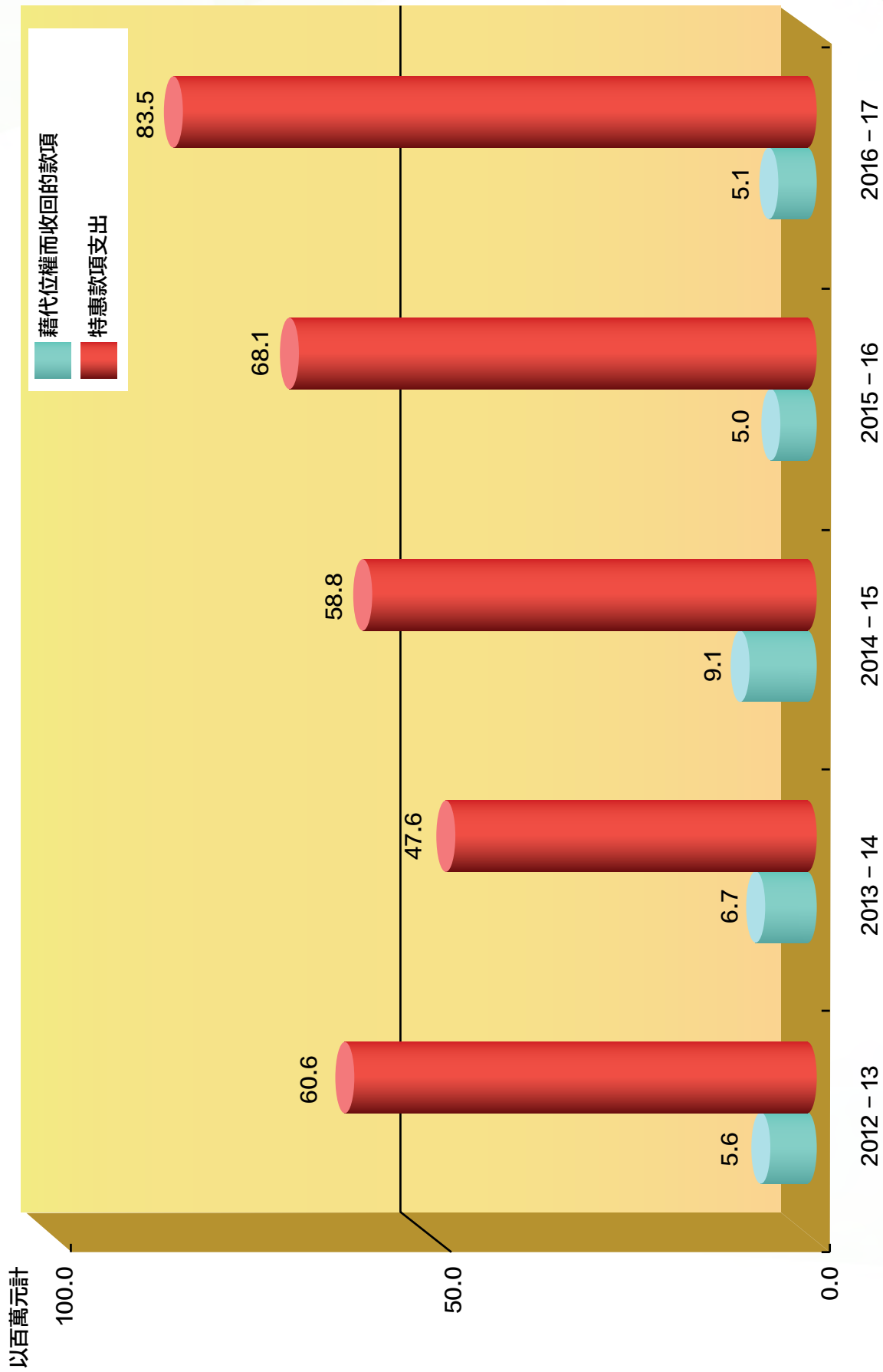
以百萬元計



\* 銀行存款利息及藉代位權而收回的款項

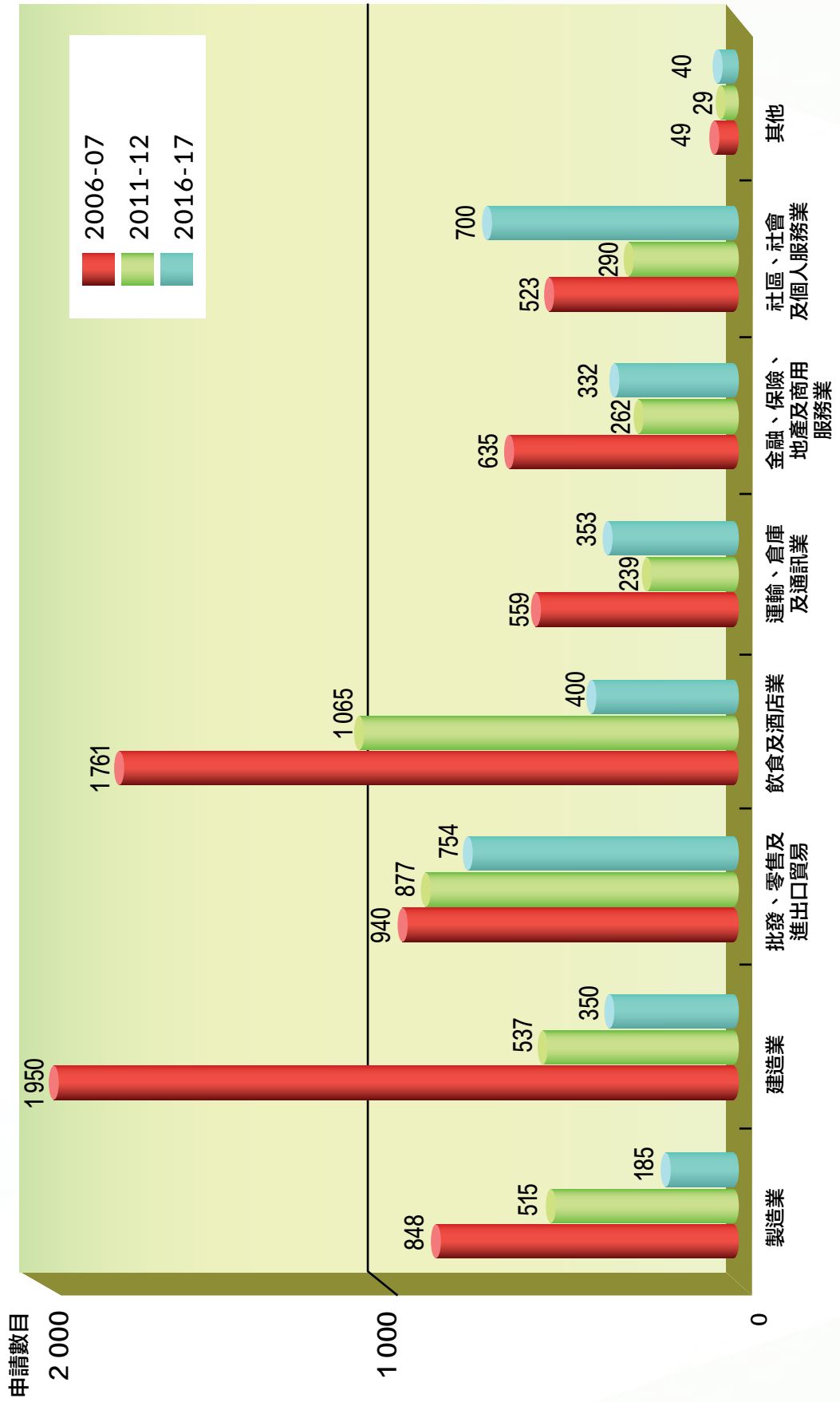
† 潛在特惠款項申索的撥備/(撥備回撥)及匯兌差額

二零一二/一三年度至二零一六/一七年度基金藉代位權而收回的款項及特惠款項支出分析



## 二零零六/零七年度、二零一一年/一三年度及二零一六/一七年度 按經濟行業劃分基金接獲的申請數目分析

(不包括遭散費特惠款項差額的申索)



# 破產欠薪保障基金

截至二零一七年三月三十一日止年度  
獨立核數師報告及審核財務報表





# 破產欠薪保障基金

## 內容

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財務狀況表	5
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現金流量表	7
財務報表附註	8-18

(此乃中文譯本，全文仍以英文為準。)



## 獨立核數師報告

### 致破產欠薪保障基金委員會委員

(根據《破產欠薪保障條例》設立)

### 意見

本核數師(下稱我們)已完成審核載列於第 4 至 18 頁的破產欠薪保障基金(下稱基金)財務報表,包括截至二零一七年三月三十一日止的財務狀況表,截至該日止年度的損益及其他全面收入報表、基金及儲備變動表和現金流量表,以及財務報表附註,包括主要會計政策概要。

我們認為,該等財務報表已根據香港會計師公會頒佈的《香港財務報告準則》真實而公平地反映基金於二零一七年三月三十一日的財務狀況及截至該日止年度的財務表現及現金流量。

### 意見的基礎

我們已根據香港會計師公會頒佈的《香港審計準則》進行審核工作。我們在該等準則下承擔的責任已在本報告「核數師就審核財務報表須承擔的責任」部分中作進一步闡述。根據香港會計師公會頒佈的《專業會計師道德守則》(下稱守則),我們獨立於基金,並已履行守則中的其他專業道德責任。我們相信,我們所獲得的審核憑證已充份和適當地為我們的審核意見提供基礎。

### 刊載於週年報告內其他信息

破產欠薪保障基金委員會(下稱委員會)需對其他信息負責。其他信息包括刊載於週年報告內的信息,但不包括財務報表及我們的核數師報告。

我們對財務報表的意見並不涵蓋其他信息,我們亦不對該等其他信息發表任何形式的鑒證結論。

結合我們對財務報表的審核,我們的責任是閱讀其他信息,在此過程中,考慮其他信息是否與財務報表或我們在審核過程中所瞭解的情況存在重大抵觸或者似乎存在重大錯誤陳述的情況。基於我們已執行的工作,如果我們認為其他信息存在重大的錯誤陳述,我們需要報告該事實。在這方面,我們沒有任何報告。

(此乃中文譯本,全文仍以英文為準。)

## 獨立核數師報告 (續)

### 致破產欠薪保障基金委員會委員

(根據《破產欠薪保障條例》設立)

### 委員會就財務報表須承擔的責任

委員會須負責根據香港會計師公會頒佈的《香港財務報告準則》及《破產欠薪保障條例》的規定，編製真實而公平的財務報表，並進行委員會認為必要的內部監控，以確保財務報表沒有因欺詐或錯誤而導致的重大錯誤陳述。

在擬備財務報表時，委員會負責評估基金持續經營的能力，並在適用情況下披露與持續經營有關的事項，以及使用持續經營為會計基礎，除非委員會有意將基金清盤或停止經營，或別無其他實際的替代方案。

### 核數師就審核財務報表須承擔的責任

我們的目標，是對財務報表整體是否不存在由於欺詐或錯誤而導致的重大錯誤陳述取得合理保證，並出具包括我們意見的核數師報告。我們亦按照《破產欠薪保障條例》的規定，僅向全體委員報告。除此之外，本報告別無其他目的。我們概不就本報告的內容向任何其他人士負有或承擔任何責任。

合理保證是高水平的保證，但不能保證按照《香港審計準則》進行的審核，在某一重大錯誤陳述存在時總能發現。錯誤陳述可以由欺詐或錯誤引起，如果合理預期它們單獨或匯總起來可能影響財務報表使用者依賴財務報表所作出的經濟決定，則有關的錯誤陳述可被視作重大。

在根據《香港審計準則》進行審核的過程中，我們運用了專業判斷，保持了專業懷疑態度。我們亦：

- 識別和評估由於欺詐或錯誤而導致財務報表存在重大錯誤陳述的風險，設計及執行審核程序以應對這些風險，以及獲取充足和適當的審核憑證，作為我們意見的基礎。由於欺詐可能涉及串謀、偽造、蓄意遺漏、虛假陳述，或凌駕於內部監控之上，因此未能發現因欺詐而導致的重大錯誤陳述的風險高於未能發現因錯誤而導致的重大錯誤陳述的風險。

(此乃中文譯本，全文仍以英文為準。)

## 獨立核數師報告 (續)

### 致破產欠薪保障基金委員會委員

(根據《破產欠薪保障條例》設立)

### 核數師就審核財務報表須承擔的責任 (續)

- 瞭解與審核相關的內部監控，以設計適當的審核程序，但目的並非對基金內部監控的有效性發表意見。
- 評價委員會所採用會計政策的恰當性及作出會計估計和相關披露的合理性。
- 對委員會採用持續經營會計基礎的恰當性作出結論。根據所獲取的審核憑證，確定是否存在與事項或情況有關的重大不確定性，從而可能導致對基金的持續經營能力產生重大疑慮。如果我們認為存在重大不確定性，則有必要在我們的核數師報告中提醒使用者注意財務報表中的相關披露。假若有關的披露不足，則修訂我們的意見。我們的結論是基於我們的核數師報告日止所取得的審核憑證。然而，未來事項或情況可能導致基金不能持續經營。
- 評價財務報表的整體列報方式、結構和內容，包括披露，以及財務報表是否公平反映相關交易和事項。

除其他事項外，我們與委員會溝通了計劃的審核範圍、時間安排、重大審核發現等，包括我們在審核中識別出內部監控的任何重大缺失。

安永會計師事務所

執業會計師

香港

二零一七年八月二十八日

(此乃中文譯本，全文仍以英文為準。)

# 破產欠薪保障基金

## 損益及其他全面收入報表 截至二零一七年三月三十一日止年度

	附註	2017 港元	2016 港元
收入	3	<u>451,293,135</u>	<u>416,228,722</u>
<b>支出</b>			
特惠款項	4	83,543,509	68,054,912
監管費	5	25,973,651	22,853,517
潛在特惠款項申索的撥備 / (撥備回撥)		(11,016,058)	99,280,000
核數師酬金		128,000	93,000
差餉及大廈管理費		334,314	317,235
保險費		7,090	6,407
印刷及文具		38,400	37,200
匯兌差額		37,636,579	-
雜項開支		<u>2,189,929</u>	<u>649,014</u>
<b>總支出</b>		<u>138,835,414</u>	<u>191,291,285</u>
<b>全年盈餘及全面收入</b>	6	<u><u>312,457,721</u></u>	<u><u>224,937,437</u></u>

(此乃中文譯本，全文仍以英文為準。)



# 破產欠薪保障基金

## 財務狀況表 二零一七年三月三十一日

	附註	2017 港元	2016 港元
<b>非流動資產</b>			
物業	9	-	-
<b>流動資產</b>			
應收徵費		39,179,800	32,004,500
應收利息		17,011,581	14,989,976
雜項按金		232,128	49,000
預付款項		88,000	80,000
定期存款	10	4,644,752,374	4,357,027,614
銀行存款	10	317,905	252,102
流動資產總值		<u>4,701,581,788</u>	<u>4,404,403,192</u>
<b>流動負債</b>			
應付已批申請款項		3,812,088	3,894,264
應付運作費用		120,240	101,980
應付監管費	5	26,000,000	23,000,000
潛在特惠款項申索的撥備	11	81,064,791	99,280,000
流動負債總值		<u>110,997,119</u>	<u>126,276,244</u>
流動資產淨值		<u>4,590,584,669</u>	<u>4,278,126,948</u>
資產淨值		<u>4,590,584,669</u>	<u>4,278,126,948</u>
<b>資金來源：</b>			
累積盈餘		4,574,045,882	4,261,588,161
一般儲備金	12	16,538,787	16,538,787
累積盈餘及儲備總值		<u>4,590,584,669</u>	<u>4,278,126,948</u>

黃友嘉博士，GBS, JP  
主席

梁芳遠女士  
委員

(此乃中文譯本，全文仍以英文為準。)

# 破產欠薪保障基金

## 基金及儲備變動表 截至二零一七年三月三十一日止年度

	累積 盈餘 港元	一般 儲備金 港元	累積盈餘及 儲備總值 港元
於二零一五年四月一日	4,036,650,724	16,538,787	4,053,189,511
全年盈餘及全面收入	<u>224,937,437</u>	<u>-</u>	<u>224,937,437</u>
於二零一六年三月三十一日 及二零一六年四月一日	4,261,588,161	16,538,787	4,278,126,948
全年盈餘及全面收入	<u>312,457,721</u>	<u>-</u>	<u>312,457,721</u>
於二零一七年三月三十一日	<u>4,574,045,882</u>	<u>16,538,787</u>	<u>4,590,584,669</u>

(此乃中文譯本，全文仍以英文為準。)

## 現金流量表 截至二零一七年三月三十一日止年度

	附註	2017 港元	2016 港元
<b>運作事務的現金流量</b>			
全年盈餘		312,457,721	224,937,437
調整：			
利息收入	3	( 60,683,615)	( 55,504,124)
		251,774,106	169,433,313
應收徵費的減少 / (增加)	(	7,175,300)	5,345,600
雜項按金的增加	(	183,128)	-
預付款項的增加	(	8,000)	( 16,667)
應付已批申請款項的減少	(	82,176)	( 883,367)
潛在特惠款項申索的撥備的增加 / (減少)	(	18,215,209)	99,280,000
應付運作費用的增加		18,260	6,280
應付監管費的增加		<u>3,000,000</u>	<u>1,500,000</u>
運作事務的現金流入淨額		<u>229,128,553</u>	<u>274,665,159</u>
<b>投資活動的現金流量</b>			
已收利息		58,662,010	53,115,155
為期三個月以上的定期存款的減少 / (增加)		<u>226,875,240</u>	<u>(1,565,735,555)</u>
投資活動的現金流入 / (流出) 淨額		<u>285,537,250</u>	<u>(1,512,620,400)</u>
<b>現金及現金等價物數額的淨增加 / (減少)</b>		514,665,803	(1,237,955,241)
年初的現金及現金等價物數額		<u>456,552,102</u>	<u>1,694,507,343</u>
<b>年終的現金及現金等價物數額</b>		<u><u>971,217,905</u></u>	<u><u>456,552,102</u></u>
<b>現金及現金等價物的結存分析</b>			
銀行結存	10	317,905	252,102
為期三個月或以下的定期存款	10	<u>970,900,000</u>	<u>456,300,000</u>
		<u><u>971,217,905</u></u>	<u><u>456,552,102</u></u>

(此乃中文譯本，全文仍以英文為準。)

## 財務報表附註 二零一七年三月三十一日

### 1. 一般資料

破產欠薪保障基金（下稱基金）是香港特別行政區政府根據香港《破產欠薪保障條例》於一九八五年設立，目的是在僱主無力清償債務的情況下，向僱員撥付特惠款項。

基金的財政來源主要是稅務局局長每年按每張商業登記證收取的徵費。

### 2.1 編製基準

本財務報表是根據香港會計師公會所頒佈的《香港財務報告準則》（包括所有香港財務報告準則、《香港會計準則》及詮釋）、香港普遍採用的會計原則及《破產欠薪保障條例》編製。本財務報表是根據歷史成本慣例編製和以港元顯示。

### 2.2 會計政策及披露之變更

有些新訂及經修訂的《香港財務報告準則》於本財政年度首次生效，但由於不適用於基金，因此對基金截至二零一七年三月三十一日止年度的財務報表並無影響。

### 2.3 已頒佈但尚未生效之《香港財務報告準則》

基金於本財務報表並未應用任何已頒佈但就二零一七年三月三十一日會計年度尚未生效的新訂及經修訂《香港財務報告準則》。基金現正就該等新訂及經修訂《香港財務報告準則》於首次應用時的影響進行評估，但尚未能肯定該等新訂及經修訂《香港財務報告準則》會否對其運作成果及財務狀況產生重大影響。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 2.4 主要會計政策概要

#### 物業和折舊

基金的物業是按成本值扣除累計折舊及任何減值虧損後列賬。物業的成本值包括其購買價及任何為使有關資產達致現時營運狀況及使營運地點備有有關資產作擬定用途的任何直接應計成本。物業投入運作後所引致的支出（如維修及保養費用），通常於該產生年度記錄作支出項目。

折舊是以直線法按基金物業的預計可使用年期撇銷其成本至殘值計算。預計可使用年期是根據物業土地契約之租約年期或於基金首次使用該物業起計20年，以較短者計算。

殘值、可使用年期及折舊方法均至少於每個財政年度末審閱及作適當之調整。

物業於出售，或當預期繼續使用或出售該等項目均將不會產生未來經濟利益時解除確認。於解除確認資產的當年確認任何出售或報廢盈虧均為有關資產的銷售所得款項淨額與賬面值之差額。

#### 金融工具

基金按最初取得資產或引致負債時的用途將金融工具作下列分類。按慣例買賣的金融資產均於交易日（即基金承諾買賣資產的日期）確認。

##### (a) 貸款及應收款項

貸款及應收款項為具有固定或可確定付款，但在活躍市場中無報價之非衍生性質之金融資產。在初步記錄其公平值加上直接應佔交易成本後，金融資產其後運用實際利率方法計算攤銷成本減去減值撥備。

(此乃中文譯本，全文仍以英文為準。)



## 財務報表附註 二零一七年三月三十一日

### 2.4 主要會計政策概要（續）

#### 金融工具（續）

當有客觀證據顯示一項或一組合之貸款已出現減值時，基金便會確認該虧損。減值撥備是按具個別重要性的貸款進行個別評估，或按具有相若信貸風險，包括經個別評估但未有作個別減值撥備等貸款的組合進行共同評估。

倘其後估計減值虧損金額增加或減少，且此金額增加或減少因與確認減值後發生之事項有關，則以往確認之減值虧損將會透過調整撥備賬予以增加或減少。倘撤賬稍後回撥，則該回撥作抵免支出。

#### (b) 金融負債

基金之金融負債包括應付已批申請款項、應付監管費及應付運作費用項下的金融負債。所有金融負債初步按收取之代價的公平值確認，並扣除直接應佔交易成本。金融負債於初步確認後，隨後以實際利率方法按攤銷成本計量。

於活躍市場買賣之金融工具之公平值參照市場報價或交易商之報價表（好倉之買入價及淡倉之賣出價）而釐定，並且不會扣除任何交易成本。就無活躍市場之金融工具而言，使用合適之估值技術釐定公平值。該等技術包括使用近期公平之市場交易；參照大致相同之另一工具之目前市值；及折算現金流量分析。

金融資產在下列情況將取消確認：當收取該項資產所得現金流量之權利已經屆滿；或基金已轉讓其收取該項資產所得現金流量之權利，並同時已轉讓該項資產擁有權之絕大部分風險及回報；或再無保留該項資產之控制權。當金融負債消滅時便取消確認，即於責任獲解除、註銷或屆滿。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 2.4 主要會計政策概要（續）

#### 現金及現金等價物

就現金流量表而言，現金及現金等價物乃指現金、銀行結存及活期存款、以及可隨時轉換為已知數額現金，並承受價值變動風險甚微之短期及高度流通性之投資，一般於購入時三個月內到期，扣除須應要求償還之銀行透支，作為基金現金管理之一個完整部分。

就財務狀況表而言，現金及現金等價物乃指用途不受限制之銀行存款及定期存款。

#### 營運租約

資產擁有權的全部回報及風險實質地由出租人保留的租約，均歸類為營運租約入賬。如基金為租賃人，則營運租約應付的租金在扣除出租人給予的任何優惠後，以直線法按租約期支銷。

#### 撥備

因過往事項而產生的現時責任（法定或推定）以及大有可能導致日後需要付出資源以履行有關責任，並可合理估計責任的金額時，便確認撥備。

當貼現的影響屬重大時，則確認的撥備數額為於報告期末就履行責任所需的預計未來支出的現值，因時間流逝所產生的貼現現值增加數額乃計入支出。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 2.4 主要會計政策概要（續）

#### 收入的確定

收入是於經濟利益可能會流入基金，並當收入能可靠地計算時按下述方式確定：

- (a) 徵費收入在稅務局收到現金收入後按照應計制入賬；
- (b) 利息收入依據本金及適用利率按時間比例累算；以及
- (c) 藉代位權追討的已付款項在收到款項時入賬。

#### 特惠款項的確定

特惠款項經勞工處處長批准有關申請後按照應計制入賬。

#### 僱員福利

##### 退休福利計劃

本基金就其僱員根據《強制性公積金計劃條例》經營界定供款強制性公積金退休福利計劃（「強制性公積金計劃」）。供款乃基於僱員的基本薪金百分比及當應付時遵照強制性公積金計劃規則在收支表列支。強制性公積金計劃於該等供款資產與本基金其他資產分開處理，並由一個獨立管理的基金持有。根據強制性公積金計劃的規則，本基金的僱主供款於向強制性公積金計劃支付時全數歸屬予僱員所有。

#### 外幣交易

財務報表以港元（基金的功能貨幣）編製。外幣交易最初按交易日通行的功能貨幣匯率入賬。以外幣為單位的貨幣資產及負債，按功能貨幣於報告期末的匯率再進行換算。因結算或換算貨幣項目而產生的差額均列作收益或虧損。

以外幣為單位，並按歷史成本計量的非貨幣項目，採用最初交易日期的匯率換算。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 3. 收入

收入分析如下：

	2017 港元	2016 港元
徵費	385,473,100	355,685,950
藉代位權追討的已付款項	5,136,420	5,038,648
銀行利息收入	<u>60,683,615</u>	<u>55,504,124</u>
	<u>451,293,135</u>	<u>416,228,722</u>

根據《商業登記條例》第7條及第21條和《破產欠薪保障條例》第3部第6條，發出的商業登記證，按《2013年商業登記條例（修訂附表2）令》，為期一年的每張徵收港幣250元，為期三年的每張徵收港幣750元。

### 4. 特惠款項

根據《破產欠薪保障條例》第5部第16(1)及(2)及18(1)條，勞工處處長可從基金中撥付以下的特惠款項給申請人：

(a) 工資

數額不超過港幣36,000元，作為申請人在服務的最後一天前四個月內所提供服務的工資。

(b) 代通知金

數額不超過相等於申請人一個月的工資或港幣22,500元（兩者以較少者為準），而該款項須於申請日期前六個月內到期支付。

(c) 遣散費

總額不超過港幣50,000元及申請人應得遣散費中超出港幣50,000元的款項的半數，而付款責任須在申請日期前六個月內產生。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 4. 特惠款項 (續)

#### (d) 未放年假薪酬及未放法定假日薪酬

未放年假薪酬及/或未放法定假日薪酬的總額不超過港幣10,500元，當中包括 (i)申請人就最後完整假期年累積而仍未放取的有薪年假的薪酬及如申請人在最後假期年已受僱滿三個月但不足12個月，在僱傭合約被終止時申請人根據《僱傭條例》可獲得的按比例計算的年假薪酬；以及 (ii)申請人在服務最後一天前四個月內未放的法定假日的薪酬，而假若申請人放取了該等假日，僱主本須就該等假日向申請人支付假日薪酬。

### 5. 監管費

根據《破產欠薪保障條例》第4部第14條，財政司司長可以在他所決定的任何時間內，釐定監管費的款額，並從基金收入中徵收。破產欠薪保障基金委員會（下稱委員會）已和香港特別行政區政府達成協議，監管費的款額為政府管理基金的成本的三分之二。然而，委員會保留日後再商討此事的權利。

### 6. 本年度盈餘

基金於本年度之盈餘乃經扣除以下項目：

	2017 港元	2016 港元
核數師酬金	128,000	93,000
僱員福利開支：		
工資及薪金	371,611	259,018
退休金計劃供款	<u>37,636</u>	<u>27,265</u>
	<u>409,247</u>	<u>286,283</u>
營運租約項下之最低租金	<u>555,079</u>	<u>264,356</u>

(此乃中文譯本，全文仍以英文為準。)





## 財務報表附註 二零一七年三月三十一日

### 11. 撥備

	2017 港元	2016 港元
年初結餘	99,280,000	-
額外撥備	-	99,280,000
年內動用款額	( 7,199,151)	-
未動用款額回撥	( 11,016,058)	-
年終結餘	<u>81,064,791</u>	<u>99,280,000</u>

鑑於過往申請人有可能根據終審法院於二零一六年五月十七日裁定的遣散費特惠款項計算方法向基金提出相關差額的申索，基金已於截至二零一六年三月三十一日止年度就潛在之申索撥備港幣99,280,000元。撥備金額是就過往相關的申請人可能根據終審法院裁定的遣散費特惠款項計算方法，而作出差額申索的估算。基金會持續評估撥備金額的估算，並在適當情況下作出修訂。

### 12. 一般儲備金

在基金成立之前所收到的徵費及利息，均已撥入一般儲備金的賬目。

### 13. 營運租約承擔

基金是根據營運租約安排租用貯物倉，經議定的租期為兩年，按月支付固定租金。

在二零一七年三月三十一日，基金根據不可撤銷的營運租約須按以下年期支付的最低租金總額如下：

	2017 港元	2016 港元
一年內	735,420	132,000
第二至五年（包括首尾兩年）	<u>343,196</u>	-
	<u>1,078,616</u>	<u>132,000</u>

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 14. 或有負債

於二零一七年三月三十一日，在財務報表內未作撥備的或有負債為已知但尚未獲批准的申請款項合共港幣125,169,859元（2016：港幣129,015,202元）。

由於這類可能支付的款項須經勞工處處長批准，方可作實，因此並未就該等款項確認撥備。

### 15. 公平值

於報告期末，基金的金融資產及負債賬面值與其公平值相若。

金融資產及負債的公平值，是以現時這些工具在雙方自願交易下（即並非因強迫或清盤而進行的買賣交易）可換取的價值計算。

應收徵費、應收利息、雜項按金、定期存款、銀行存款、應付已批申請款項、應付監管費及應付運作費用項下的金融負債的公平值與其賬面值相若，主要由於這些工具將於短期內到期。

### 16. 財務風險管理之目標及政策

基金的主要金融工具包括現金及短期存款。基金有各種其他金融資產及負債，如應收徵費、應收利息、雜項按金、應付已批申請款項、應付監管費及應付運作費用項下的金融負債，且均直接由其營運業務產生。基金金融工具之主要風險乃來自信貸風險、利率風險及外幣風險。

#### 信貸風險

基金的應收款項結餘均受到持續監察，而且基金的壞賬風險並不重大。基金的最大信貸風險乃來自對方違反協議條款，其金額等同該金融資產之賬面總值。

#### 利率風險

基金須承擔的市場利率變動風險主要關於基金的浮息銀行結存。基金現時並無任何計劃參與對沖安排用以管理其利率風險。

（此乃中文譯本，全文仍以英文為準。）

## 財務報表附註 二零一七年三月三十一日

### 16. 財務風險管理之目標及政策（續）

#### 外幣風險

外幣風險是指以外幣為單位的金融工具之價值因匯率的變動而上落的風險。基金並無對沖政策或簽訂外匯期貨合約以作抵銷個別交易的外幣風險。

下表顯示於報告期末，在所有其他可變因素維持不變的情況下，人民幣匯率之合理可能變動對基金的盈餘之敏感度（因貨幣資產及負債的公平值之變動）。

	匯率 變動 %	盈餘 增加/(減少) 港元
<u>2017</u>		
如港元兌人民幣貶值	1	3,675,524
如港元兌人民幣升值	<u>(1)</u>	<u>( 3,675,524)</u>
<u>2016</u>		
如港元兌人民幣貶值	1	3,879,276
如港元兌人民幣升值	<u>(1)</u>	<u>( 3,879,276)</u>

#### 資本管理

基金管理資本之主要目標為保障基金繼續以持續基準經營之能力，在僱主無力清償債務的情況下，向僱員撥付特惠款項。

基金管理其資本結構及因應經濟狀況變動作出調整。基金於截至二零一六年三月三十一日及二零一七年三月三十一日止年度並無就管理資本的目標、政策或過程作出變動。

### 17. 財務報表的核准

財務報表已於二零一七年八月二十八日經由委員會核准並授權發行。

(此乃中文譯本，全文仍以英文為準。)

# Protection of Wages on Insolvency Fund Board

Annual Report  
2016-17



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## CHAIRMAN'S FOREWORD

I hereby present the Annual Report of the Protection of Wages on Insolvency Fund Board (the Board) covering the period from 1 April 2016 to 31 March 2017 (the year).

In the year, I am glad to see that benefitting from the moderate growth of the overall economy of Hong Kong, the number of employees who were owed wages and other statutory compensation due to business cessation and who sought relief from the Protection of Wages on Insolvency Fund (the Fund) has slightly decreased. In the year, the Fund received a total of 3 114 applications, a drop of 13% over the figure of 3 569 in the preceding year, and approved 2 399 applications with a total payout of \$80.8 million of ex gratia payment, a decrease of 24% and an increase of 19% respectively over the figures in the preceding year<sup>1</sup>. During the period, the Board and colleagues of the Wage Security Division of the Labour Department (LD) demonstrated our continued commitment to ensure that the Fund aptly performs its role as a safety net, and provides timely relief to employees aggrieved by the closure of business of their insolvent employers.

The Board has the statutory functions of administering the Fund and making recommendations to the Chief Executive with regard to the rate of levy on Business Registration Certificates financing the Fund. In this respect, the Board has been monitoring closely the financial position of the Fund. The Fund has a surplus of \$312.5 million in the year and an accumulative surplus of \$4,590.6 million by the end of March 2017.

On 17 May 2016, the Court of Final Appeal (CFA) handed down judgment on a case of judicial review concerning the method of calculation of ex gratia payment on severance payment (SP) to be paid by the Fund, overturning the previous rulings of the Court of First Instance and the Court of Appeal of the High Court and allowed the applicant's appeal. The Board respects the judgment of CFA. Immediately after the handing down of judgment by CFA, LD has followed the method ruled by CFA in calculating the ex gratia payment on SP payable by the Fund. In tandem, claims from past applicants against the Board for the shortfall in ex gratia payment on SP under the Fund were processed on a case-by-case basis in accordance with CFA's interpretation of the relevant provisions and having regard to the information provided by

<sup>1</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.

the claimants. As at end-March 2017, the Board has received 667 claims for the aforesaid shortfall and processed 488 claims, with payment of the shortfall made to 365 claimants.

Alongside with providing prompt relief to employees affected by the business cessation of their employers, we also need to safeguard the Fund against any possible abuse. The inter-departmental Task Force (the Task Force) comprising representatives of LD, the Commercial Crime Bureau of the Police, the Official Receiver's Office (ORO) and the Legal Aid Department (LAD) continued to spare no efforts in proactively investigating and pursuing cases involving possible abuse of the Fund. The concerted actions of various government departments demonstrated to the community that any attempt to defraud the Fund would never be tolerated.

In the year, I am glad that all members have participated actively, provided valuable views and made dedicated efforts to administer the Fund with collective wisdom and diligence. I would like to express my most sincere gratitude to them. We will continue to make every endeavour to provide appropriate and timely relief to applicants. Last but not least, on behalf of the Board, I would like to extend our heartfelt appreciation to all our working partners, including LD, LAD, ORO, the Police and the Inland Revenue Department, for their continued support to the Board in keeping the Fund in effective operation and thereby contributing to the society.

Dr. David WONG Yau-kar, GBS, JP  
Chairman  
Protection of Wages on Insolvency Fund Board

September 2017

# MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2016-17

## Chairman

Dr. David WONG Yau-kar, GBS, JP

## Members

### Representing employees

Hon. POON Siu-ping, BBS, MH

Ms. LEUNG Fong-yuen

Mr. CHU Yin-cheong

### Representing employers

Mrs. CHOI KWAN Wing-kum, MH, JP

Mr. FUNG Hau-chung, BBS, JP

Mr. Mohan DATWANI

### Representing government departments

Assistant Commissioner for Labour of the Labour Department  
responsible for wage security matters

Assistant Official Receiver of the Official Receiver's Office

Assistant Principal Legal Aid Counsel of the Legal Aid Department  
responsible for insolvency matters

## Secretary

Senior Labour Officer, Wage Security Division of the Labour Department

## Group Photo of the Protection of Wages on Insolvency Fund Board 2016-17



### Rear row from left:

**Mr. Ben LI Chi-keung**

Assistant Principal Legal Aid Counsel,  
Legal Aid Department

**Mr. William MAK Chi-tung**

Assistant Commissioner  
(Employees' Rights and Benefits),  
Labour Department

**Mr. Mohan DATWANI**

Representing employers

**Mr. CHU Yin-cheong**

Representing employees

**Ms. Ophelia LOK Pui-man**

Assistant Official Receiver  
(Legal Services)1,  
Official Receiver's Office

**Ms. Candice CHENG Lai-fan**

Secretary

### Front row from left:

**Mrs. CHOI KWAN Wing-kum, MH, JP**

Representing employers

**Mr. FUNG Hau-chung, BBS, JP**

Representing employers

**Dr. David WONG Yau-kar, GBS, JP**

Chairman

**Hon. POON Siu-ping, BBS, MH**

Representing employees

**Ms. LEUNG Fong-yuen**

Representing employees

## INTRODUCTION

The Protection of Wages on Insolvency Ordinance (the Ordinance), which came into effect on 19 April 1985, provides for the establishment of a board to administer the Protection of Wages on Insolvency Fund (the Fund). The Ordinance also empowers the Commissioner for Labour to make ex gratia payment from the Fund to employees whose employers have become insolvent.

This report covers the activities of the Protection of Wages on Insolvency Fund Board (the Board) and the operation of the Fund for the financial year ended 31 March 2017.

## PROTECTION OF WAGES ON INSOLVENCY FUND BOARD

The Ordinance provides that the Board shall consist of a chairman and not more than ten members appointed by the Chief Executive. Of the members, there shall be an equal number of persons representing employers and employees and not more than four public officers.

The Board has the following statutory functions:

- (a) to administer the Fund;
- (b) to make recommendations to the Chief Executive with respect to the rate of levy on Business Registration Certificates; and
- (c) to review applications upon request from applicants aggrieved by any decision of the Commissioner for Labour in respect of applications for ex gratia payment from the Fund.

## PROTECTION OF WAGES ON INSOLVENCY FUND

The Fund is mainly financed by an annual levy on each Business Registration Certificate. The levy is collected by the Inland Revenue Department when the business registration fee is paid.



Under the Ordinance, employees who are owed wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays by their insolvent employers may apply for ex gratia payment from the Fund. The application should be made in an approved form and supported by a statutory declaration. The application has to be made within a period of six months from the applicant's last day of service.

### **Maximum amount of ex gratia payment payable by the Fund**

Ex gratia payment from the Fund covers:

- (a) wages of an employee for services rendered to his employer during the four months prior to the last day of service but not exceeding \$36,000 ("wages" include remuneration and earnings and the items that could be deemed to be wages, namely, holiday pay, annual leave pay, end of year payment, maternity leave pay, paternity leave pay and sickness allowance);
- (b) wages in lieu of notice up to one month's wages or \$22,500, whichever is less;
- (c) an employee's entitlement to severance payment under the Employment Ordinance up to \$50,000 plus 50% of any entitlement in excess of \$50,000; and
- (d) pay for untaken annual leave and pay for untaken statutory holidays, including (i) pay for any annual leave under the Employment Ordinance earned in the employee's last full leave year and not yet taken and, where the employee has at least three but less than 12 months' service in the last leave year, pro rata annual leave pay to which the employee is entitled upon termination of employment contract; and (ii) pay for statutory holidays to which the employee is entitled but has not yet taken within four months before his last day of service. Neither (i) nor (ii), nor the total amount of them, may exceed \$10,500.



## **Prerequisites for making ex gratia payment from the Fund**

Section 16(1) of the Ordinance requires the presentation of a winding-up or bankruptcy petition against the employer as a pre-condition for payment from the Fund. Under section 18(1) of the Ordinance, the Commissioner for Labour may exercise discretion to make payment without the presentation of a petition in circumstances where:

- (a) the size of employment is less than 20 employees;
- (b) sufficient evidence exists to support the presentation of a petition in that case on the ground –
  - (i) if the employer is a company, that he is unable to pay his debts; or
  - (ii) if the employer is a person other than a company, that he is liable to have a bankruptcy petition presented against him; and
- (c) it is unreasonable or uneconomic to present a petition in that case.

The Commissioner for Labour is also empowered under section 16(1)(a)(ii) of the Ordinance to make ex gratia payment from the Fund to employees who, because of a restriction imposed by the Bankruptcy Ordinance, cannot present a bankruptcy petition against their employer as the aggregate amount of outstanding payment is below \$10,000.

The Commissioner for Labour is empowered by the Ordinance to investigate applicants' applications before making payment from the Fund. For the purpose of verifying applications, the Commissioner for Labour or his authorised officers may require employers and applicants to submit wage and employment records and conduct interviews with them.

## **Subrogation rights of the Fund**

Where ex gratia payment has been made to an applicant in respect of wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays, his rights and remedies under the Companies (Winding Up and Miscellaneous Provisions) Ordinance or the Bankruptcy Ordinance would, to the extent of the amount of payment, be transferred to the Board. The

Board, in exercising these subrogated rights, may file a proof of debt with the Official Receiver or the private liquidator for the purpose of recovering any payment made to the applicant in the course of winding-up or bankruptcy proceedings.

## Application of the Fund's reserve

A property was purchased in 1990 to provide office accommodation for the Board. In addition, all cash has been placed in banks approved by the Board as term deposits.

## ANNUAL REVIEW OF APPLICATIONS RECEIVED AND PROCESSED

The applications received and processed in this financial year, together with the relevant analyses, are summarised as follows:

### Applications received<sup>2</sup>

During the year 2016-17, 3 114 applications involving ex gratia payment of \$268.1 million applied for were received from employees. A total of 530 suspected insolvency cases were recorded. Detailed breakdown of the applications is at **Appendix I**.

Of the 530 suspected insolvency cases, 512 involved less than 20 employees per case, 11 involved 20 to 49 employees per case, six involved 50 to 99 employees per case, and the remaining one involved 100 employees or more.

During the year, the industry of sports and other entertainment activities recorded the largest number of applications, with 571 applications involving a total amount of \$62.4 million. This was followed by the retail trade with 427 applications and a total amount of \$30.1 million, and food and beverage service activities with 388 applications and a total amount of \$12.6 million. These three trades accounted for 44.5% of all applications and 39.2% of the total amount applied for.

Out of the total 3 114 applicants in the year, 2 891 applied for ex gratia payment on arrears of wages, 2 220 applied for payment on wages in lieu of notice, 1 150

<sup>2</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.

applied for payment on severance payment and 1 969 applied for payment on pay for untaken annual leave and/or pay for untaken statutory holidays. Breakdowns of these applications are at **Appendices II, III, IV and V**.

## Applications processed

A total of 2 399 applications were approved during the year, resulting in payment amounting to \$80.8 million. Out of these, a total payment of \$26.4 million was made to 854 applicants under section 16(1)(a)(ii) or section 18(1) of the Ordinance where presentation of a bankruptcy or winding-up petition was not required<sup>3</sup>.

An analysis of ex gratia payment approved is at **Appendix VI**. As indicated at **Appendix VII**, the amount applied for was met in full in respect of 87.3% of applicants for arrears of wages, 97.9% of applicants for wages in lieu of notice, 66.9% of applicants for severance payment, and 43.3% of applicants for pay for untaken annual leave and/or pay for untaken statutory holidays.

The Commissioner for Labour rejected 28 applications involving a total amount of \$2.8 million, mostly for reasons such as applications without legal backing, insufficient evidence, or the applicants being registered company directors. At the same time, 446 applications involving a total amount of \$47.3 million were withdrawn, mainly as a result of direct settlement between employees and their employers or liquidators<sup>4</sup>.

**Appendices VIII and IX** set out the comparative figures on the Fund's performance in the last five to ten years.

<sup>3,4</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.

## MEETINGS OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD

The Board met four times during the year to discuss matters relating to the administration of the Fund. These included the Fund's performance and financial statements, projection of income and expenditure, work plan in handling applications for ex gratia on severance payment approved prior to the judgment of the Court of Final Appeal on a judicial review case on the method of calculation of ex gratia payment on severance payment. The Board has set up a special task force to examine and approve the claims for shortfall in ex gratia payment on severance payment. The task force met four times in the year.

## FINANCIAL POSITION OF THE PROTECTION OF WAGES ON INSOLVENCY FUND

During the year, the Fund had a total income of \$451.3 million, of which \$385.5 million was levy income. The total expenditure was \$138.8 million, of which \$83.5 million was expenditure on ex gratia payment. The Fund registered a surplus of \$312.5 million as compared with a surplus of \$224.9 million in the previous financial year. As at 31 March 2017, the Fund's accumulated surplus stood at \$4,590.6 million.

A copy of the independent auditor's report and the audited financial statements for the year ended 31 March 2017 is at **Appendix X**.

# ACTIVITIES HIGHLIGHT

## Publicity and promotion for the Fund

During the year, the Labour Department continued to carry out various activities, including staging six exhibitions in different districts to promote the Employment Ordinance. In these exhibitions, the Fund, the provisions of the Ordinance and matters relating to employees' applications for ex gratia payment from the Fund were also publicised.



The Fund and the Ordinance were publicised in the exhibitions organised by the Labour Department.

## **Achievements of the inter-departmental Task Force**

The inter-departmental Task Force continued to play an active role in guarding against abuse of the Fund. The Labour Department, the Commercial Crime Bureau of the Hong Kong Police Force, the Official Receiver's Office and the Legal Aid Department acted in concert to proactively pursue and investigate cases involving possible abuse of the Fund by employers and employees.

During the year 2016-17, the Board noted that the court had disqualified a total of ten company responsible persons involving abuse of the Fund from being directors or taking part in the promotion, formation or management of a company, with the disqualification period ranging from two and a half years to four and a half years. Apart from the above, the Labour Department adopted a multi-pronged enforcement strategy to guard against the possibility of cases of non-payment of wages evolving into applications for the Fund. In the same period, there were 520 convicted summonses in respect of wage offences. Of these, 154 convictions were against company directors and responsible persons.



# Appendix



## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

### I. Breakdown of applications by result

(1) No. of cases received		530
(2) No. of applications		
(i) b/f last period		1 115
received this period		3 114
reconsidered this period		9
		4 238
(ii) processed		2 873
<i>approved</i>		2 399
<i>refused</i>		28
<i>withdrawn</i>		446
outstanding		1 360
put aside *		5
		4 238

(3) Amount of ex gratia payment (in HK\$'000) applied for	Arrears of wages	Wages in lieu of notice	Severance payment	Pay for untaken annual leave and/ or pay for untaken statutory holidays	HK\$'000
(i) b/f last period					129,015
received this period	104,940 +	48,383 +	92,343 +	22,459 =	268,125
reconsidered this period	458 +	26 +	141 +	128 =	753
					397,893

(ii)	Arrears of wages	Wages in lieu of notice	Severance payment	Pay for untaken annual leave and/ or pay for untaken statutory holidays	HK\$'000
approved	44,234 +	20,123 +	11,324 +	5,079 =	80,760
screened					141,913
refused					2,799
withdrawn					47,251
outstanding } put aside * }					125,170
					397,893

(4) No. of applications seeking review by the Fund Board	1
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### II. Presentation of petition in relation to applications approved

(1) No. of applications where a winding-up petition has been made	1 496
(2) No. of applications where a bankruptcy petition has been made	49
(3) No. of applications dealt with under S.18(1) of the Protection of Wages on Insolvency Ordinance	836
(4) No. of applications dealt with under S.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance	18
	2 399

### III. Breakdown of cases by employment size

(1) Less than 20 employees	512
(2) 20 ~ 49 employees	11
(3) 50 ~ 99 employees	6
(4) 100 or more employees	1
	530

\* Cases pending private settlement or withdrawal.

## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

### IV. Breakdown of applications by industry

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants ~		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division B</b>	<b>Mining and quarrying</b>	1	(1)	\$ 508,668.00
<b>Division C</b>	<b>Manufacturing</b>			
Sub-group				
10	Manufacture of food products	10	(3)	\$ 688,871.82
13	Manufacture of textiles	52	(12)	\$ 7,689,641.01
14	Manufacture of wearing apparel	1	(1)	\$ 163,729.50
15	Manufacture of leather and related products	10	(2)	\$ 956,913.11
17	Manufacture of paper and paper products	30	(3)	\$ 2,227,669.78
18	Printing and reproduction of recorded media	1	(0) <sup>#</sup>	\$ 91,775.24
19	Manufacture of coke and refined petroleum products	5	(1)	\$ 528,620.45
22	Manufacture of rubber and plastics products (except furniture, toys, sports goods and stationery)	8	(4)	\$ 616,998.30
24	Manufacture of basic metals	1	(1)	\$ 197,455.08
25	Manufacture of fabricated metal products (except machinery and equipment)	1	(1)	\$ 594,539.43
26	Manufacture of computer, electronic and optical products	31	(3)	\$ 3,112,981.81
27	Manufacture of electrical equipment	6	(2)	\$ 1,188,287.74
31	Manufacture of furniture	2	(2)	\$ 62,717.60
32	Other manufacturing	25	(7)	\$ 2,536,289.48
33	Repair and installation of machinery and equipment	2	(2)	\$ 1,012,840.91
<b>Division E</b>	<b>Water supply; sewerage, waste management and remediation activities</b>			
Sub-group				
38	Waste collection, treatment and disposal activities; materials recovery	37	(2)	\$ 1,125,601.05
39	Remediation activities and other waste management services	2	(1)	\$ 460,472.33
<b>Division F</b>	<b>Construction</b>	350	(98)	\$ 21,567,196.34
<b>Division G</b>	<b>Import/export, wholesale and retail trades</b>			
Sub-group				
45	Import and export trade	309	(88)	\$ 35,229,743.77
46	Wholesale	18	(4)	\$ 538,547.39
47	Retail trade	427	(38)	\$ 30,120,375.72

~ Figure in brackets denotes the number of suspected insolvency cases received in this year.

# All the applicants were of late applications of case(s) in the preceding year.

## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants ~		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division H</b> Sub-group	<b>Transportation, storage, postal and courier services</b>			
49	Land transport	21	(10)	\$ 1,584,489.24
50	Water transport	5	(1)	\$ 1,794,887.35
52	Warehousing and support activities for transportation	52	(6)	\$ 2,643,604.87
53	Postal and courier activities	18	(5)	\$ 830,152.15
<b>Division I</b> Sub-group	<b>Accommodation and food service activities</b>			
55	Short term accommodation activities	12	(1)	\$ 615,176.67
56	Food and beverage service activities	388	(80)	\$ 12,611,445.93
<b>Division J</b> Sub-group	<b>Information and communications</b>			
58	Publishing activities	17	(4)	\$ 775,732.92
59	Motion picture, video and television programme production, sound recording and music publishing activities	4	(1)	\$ 115,000.00
60	Programming and broadcasting activities	161	(0) <sup>#</sup>	\$ 31,148,125.05
61	Telecommunications	5	(4)	\$ 1,219,430.02
62	Information technology service activities	67	(9)	\$ 6,579,372.75
63	Information service activities	3	(2)	\$ 75,362.78
<b>Division K</b> Sub-group	<b>Financial and insurance activities</b>			
64	Financial service activities (except insurance and pension funding)	32	(16)	\$ 6,978,679.20
66	Activities auxiliary to financial service and insurance activities	29	(4)	\$ 2,186,392.57
<b>Division L</b>	<b>Real estate activities</b>	10	(4)	\$ 365,143.05
<b>Division M</b> Sub-group	<b>Professional, scientific and technical activities</b>			
69	Legal and accounting activities	7	(2)	\$ 660,306.08
70	Activities of head offices; management and management consultancy activities	20	(7)	\$ 2,082,300.12
71	Architecture and engineering activities, technical testing and analysis	2	(1)	\$ 58,715.25
74	Advertising and market research	14	(7)	\$ 983,569.56
75	Other professional, scientific and technical activities	8	(4)	\$ 1,042,355.09

~ Figure in brackets denotes the number of suspected insolvency cases received in this year.

# All the applicants were of late applications of case(s) in the preceding year.

## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants <sup>~</sup>		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division N</b>	<b>Administrative and support service activities</b>			
Sub-group				
77	Rental and leasing activities	2	(2)	\$ 185,758.62
78	Employment activities	3	(1)	\$ 173,078.41
79	Travel agency, reservation service and related activities	111	(15)	\$ 11,521,614.87
80	Security and investigation activities	13	(1)	\$ 231,577.87
81	Services to buildings and landscape care activities	79	(1)	\$ 1,313,556.76
82	Office administrative, office support and other business support activities	2	(1)	\$ 638,343.73
<b>Division P</b>	<b>Education</b>	27	(10)	\$ 1,062,326.45
<b>Division Q</b>	<b>Human health and social work activities</b>			
Sub-group				
86	Human health activities	14	(10)	\$ 793,665.47
<b>Division R</b>	<b>Arts, entertainment and recreation</b>			
Sub-group				
90	Creative and performing arts activities	13	(4)	\$ 382,055.93
92	Activities of amusement parks and theme parks	1	(1)	\$ 93,944.99
93	Sports and other entertainment activities	571	(5)	\$ 62,415,702.64
<b>Division S</b>	<b>Other service activities</b>			
Sub-group				
95	Repair of motor vehicles, motorcycles, computers, personal and household goods	1	(1)	\$ 16,033.10
96	Other personal service activities	52	(19)	\$ 3,348,176.67
<b>Division T</b>	<b>Work activities within domestic households</b>			
Sub-group				
97	Activities of households as employers of domestic personnel	13	(12)	\$ 348,166.61
98	Goods- and services-producing activities of private households for own use	8	(3)	\$ 31,240.00
<b>Total :</b>		<b>3 114</b>	<b>(530)</b>	<b>\$ 268,125,418.63</b>

<sup>~</sup> Figure in brackets denotes the number of suspected insolvency cases received in this year.  
 Note: Information as indicated in Appendix I excludes the claims for shortfall in ex gratia payment on severance payment.



## Breakdown of applications for ex gratia payment on arrears of wages received in 2016-17

<b>A. By amount</b> (including overtime pay and items that could be deemed to be wages)		
Amount	No. of applicants	Percentage
No entitlement/Not applied for	223	7.16
\$8,000 <sup>^</sup> or less	489	15.70
\$8,001 - \$18,000	816	26.20
\$18,001 - \$24,000	322	10.34
\$24,001 - \$27,000	134	4.30
\$27,001 - \$30,000	107	3.44
\$30,001 - \$33,000	89	2.86
\$33,001 - \$36,000 <sup>+</sup>	85	2.73
\$36,001 - \$39,000	81	2.60
More than \$39,000	768	24.67
<b>Total :</b>	3 114	100.00
<b>B. By period of outstanding wages</b> (excluding overtime pay and items that could be deemed to be wages)		
Period	No. of applicants	Percentage
No entitlement/Not applied for	391	12.56
Half month or less	338	10.85
More than 1/2 month to 1 month	527	16.92
More than 1 month to 2 months	1 280	41.10
More than 2 months to 3 months	318	10.21
More than 3 months to 4 months <sup>+</sup>	94	3.02
More than 4 months	166	5.34
<b>Total :</b>	3 114	100.00

<sup>^</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and the Bankruptcy Ordinance, i.e. wages not exceeding \$8,000 should be paid in priority to other debts in the distribution of the remaining assets of the employer during the winding-up/bankruptcy proceedings.

<sup>+</sup> Maximum amount of ex gratia payment on arrears of wages under the Protection of Wages on Insolvency Ordinance, i.e. not exceeding \$36,000 or four months' wages, whichever is less.



## Breakdown of applications for ex gratia payment on wages in lieu of notice received in 2016-17

<b>A. By amount</b>		
Amount	No. of applicants	Percentage
No entitlement/Not applied for	894	28.71
\$2,000 <sup>‡</sup> or less	90	2.89
\$2,001 - \$6,000	473	15.19
\$6,001 - \$10,000	306	9.83
\$10,001 - \$15,000	424	13.62
\$15,001 - \$22,500 <sup>Ⓜ</sup>	388	12.46
\$22,501 - \$25,000	74	2.38
More than \$25,000	465	14.92
<b>Total :</b>	3 114	100.00
<b>B. By notice period</b>		
Notice period	No. of applicants	Percentage
No entitlement/Not applied for	894	28.71
1 day - 7 days	520	16.70
8 days - 14 days	45	1.45
15 days	92	2.95
16 days - less than 1 month	96	3.08
1 month <sup>‡</sup> <sup>Ⓜ</sup>	1 376	44.19
More than 1 month	91	2.92
<b>Total :</b>	3 114	100.00

<sup>‡</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and the Bankruptcy Ordinance, i.e. wages in lieu of notice not exceeding one month's wages or \$2,000, whichever is the lesser, should be paid in priority to other debts in the distribution of the remaining assets of the employer during the winding-up/bankruptcy proceedings.

<sup>Ⓜ</sup> Maximum amount of ex gratia payment on wages in lieu of notice under the Protection of Wages on Insolvency Ordinance, i.e. not exceeding \$22,500 or one month's wages, whichever is less.

## Breakdown of applications for ex gratia payment on severance payment<sup>(a)</sup> received in 2016-17

<b>A. By amount</b>		
Amount	No. of applicants	Percentage
No entitlement/Not applied for \$8,000 <sup>(b)</sup> or less	1 964	63.07
\$8,001 - \$36,000	68	2.18
\$36,001 - \$50,000	327	10.50
\$50,001 - \$80,000	154	4.95
\$80,001 - \$110,000	238	7.64
\$110,001 - \$140,000	106	3.40
\$140,001 - \$170,000	68	2.18
\$170,001 - \$200,000	52	1.67
\$200,001 - \$250,000	29	0.93
\$250,001 - \$300,000	50	1.61
\$300,001 - \$350,000	26	0.83
\$350,001 - \$370,000	12	0.39
\$370,001 - \$390,000	4	0.13
More than \$390,000	10	0.32
	6	0.20
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
<b>B. By length of service</b>		
Length of service	No. of applicants	Percentage
Not applied for or less than 2 years' service	1 971	63.29
2 - 4.99 years	509	16.35
5 - 5.99 years	93	2.99
6 - 6.99 years	60	1.93
7 - 7.99 years	55	1.77
8 - 8.99 years	58	1.86
9 - 9.99 years	50	1.61
10 - 14.99 years	168	5.39
15 - 19.99 years	82	2.63
20 - 24.99 years	46	1.48
25 - 29.99 years	19	0.61
30 - 34.99 years	2	0.06
35 - 38.99 years	0	0.00
39 - 40.99 years	0	0.00
41 - 42.99 years	1	0.03
43 years' service and over	0	0.00
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>

<sup>(a)</sup> The maximum amount of ex gratia payment out of the Protection of Wages on Insolvency Fund on severance payment is \$220,000.

<sup>(b)</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and the Bankruptcy Ordinance, i.e. severance payment not exceeding \$8,000 should be paid in priority to other debts in the distribution of the remaining assets of the employer during the winding-up/bankruptcy proceedings.

Note: Information as indicated in Appendix IV excludes the claims for shortfall in ex gratia payment on severance payment.

**Breakdown of applications for  
ex gratia payment on pay for untaken annual leave  
and/or pay for untaken statutory holidays received in 2016-17**

<b>A. By amount</b>		
<b>Amount</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	1 145	36.77
\$2,000 or less	424	13.62
\$2,001 - \$4,000	406	13.04
\$4,001 - \$6,000	293	9.41
\$6,001 - \$8,000	184	5.91
\$8,001 - \$10,500 <sup>⌘</sup>	140	4.50
\$10,501 - \$20,000	254	8.16
More than \$20,000	268	8.59
<b>Total :</b>	3 114	100.00
<b>B. By leave year of pay for untaken annual leave</b>		
<b>Leave year</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	1 172	37.64
1 year or less	1 189	38.18
More than 1 year to less than 2 years <sup>⌘</sup>	481	15.45
2 years or above	272	8.73
<b>Total :</b>	3 114	100.00
<b>C. By period involved in pay for untaken statutory holidays</b>		
<b>Period</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	2 427	77.94
2 months or less	179	5.75
More than 2 months to 4 months <sup>⌘</sup>	111	3.56
More than 4 months	397	12.75
<b>Total :</b>	3 114	100.00

<sup>⌘</sup> Maximum amount of ex gratia payment on pay for untaken annual leave and/or pay for untaken statutory holidays under the Protection of Wages on Insolvency Ordinance, i.e. not exceeding the last two leave years' pay for untaken annual leave and/or four months' pay for untaken statutory holidays, with total maximum amount at \$10,500.

## Analysis of ex gratia payment approved in 2016-17

<b>A. Analysis of payment approved for arrears of wages</b> (including overtime pay and items that could be deemed to be wages)		
Amount	No. of applicants	Percentage
Not applied for/Not approved	199	8.30
\$4,000 or less	245	10.21
\$4,001 - \$8,000	229	9.55
\$8,001 - \$10,000	131	5.46
\$10,001 - \$12,000	140	5.84
\$12,001 - \$14,000	110	4.59
\$14,001 - \$16,000	105	4.38
\$16,001 - \$18,000	93	3.88
\$18,001 - \$28,000	411	17.13
\$28,001 - \$36,000 <sup>‡</sup>	736	30.66
<b>Total :</b>	2 399	100.00
<b>B. Analysis of payment approved for wages in lieu of notice</b>		
Amount	No. of applicants	Percentage
Not applied for/Not approved	718	29.93
\$2,000 or less	169	7.04
\$2,001 - \$3,000	121	5.04
\$3,001 - \$4,000	99	4.13
\$4,001 - \$5,000	83	3.46
\$5,001 - \$6,000	66	2.75
\$6,001 - \$10,000	199	8.30
\$10,001 - \$22,500 <sup>†</sup>	944	39.35
<b>Total :</b>	2 399	100.00

<sup>‡</sup> The maximum amount of ex gratia payment out of the Protection of Wages on Insolvency Fund (the Fund) on arrears of wages.

<sup>†</sup> The maximum amount of ex gratia payment out of the Fund on wages in lieu of notice.

## Analysis of ex gratia payment approved in 2016-17

<b>C. Analysis of payment approved for severance payment</b> (excluding claims for shortfall in ex gratia payment on severance payment)		
Amount	No. of applicants	Percentage
Not applied for/Not approved	1 749	72.91
\$8,000 or less	261	10.88
\$8,001 - \$22,000	238	9.92
\$22,001 - \$36,000	69	2.88
\$36,001 - \$50,000	26	1.08
\$50,001 - \$80,000	47	1.96
\$80,001 - \$110,000	6	0.25
\$110,001 - \$140,000	2	0.08
\$140,001 - \$170,000	1	0.04
\$170,001 - \$200,000	0	0.00
\$200,001 - \$210,000	0	0.00
\$210,001 - \$220,000 <sup>☆</sup>	0	0.00
<b>Total :</b>	2 399	100.00
<b>D. Analysis of payment approved for pay for untaken annual leave and/or pay for untaken statutory holidays</b>		
Amount	No. of applicants	Percentage
Not applied for/Not approved	1 085	45.23
\$1,000 or less	212	8.84
\$1,001 - \$3,000	487	20.30
\$3,001 - \$5,000	239	9.96
\$5,001 - \$7,000	130	5.42
\$7,001 - \$10,500 <sup>♠</sup>	246	10.25
<b>Total :</b>	2 399	100.00

☆ The maximum amount of ex gratia payment out of the Fund on severance payment.

♠ The maximum amount of ex gratia payment out of the Fund on pay for untaken annual leave and/or pay for untaken statutory holidays.

## Analysis of approved ex gratia payment as percentage of the amount applied for by applicants in 2016-17

<b>A. Arrears of wages at maximum payment of \$36,000</b>	
Approved payment as percentage of the amount applied for	Percentage of applicants
100%	87.28
90% or above	88.38
80% or above	89.72
70% or above	90.97
60% or above	91.80
50% or above	93.05
40% or above	94.15
30% or above	95.41
20% or above	97.10
10% or above	98.82
5% or above	99.73
<b>B. Wages in lieu of notice at maximum payment of \$22,500</b>	
Approved payment as percentage of the amount applied for	Percentage of applicants
100%	97.91
90% or above	98.21
80% or above	98.51
70% or above	98.61
60% or above	99.15
50% or above	99.40
40% or above	99.65
30% or above	99.90
20% or above	100.00
10% or above	100.00



**Analysis of approved ex gratia payment  
as percentage of the amount applied for by applicants in 2016-17**

<b>C. Severance payment at maximum payment of \$50,000 + 50% of excess entitlement</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	66.86
90% or above	69.52
80% or above	74.04
70% or above	76.79
60% or above	81.12
50% or above	84.66
<b>D. Pay for untaken annual leave and/or pay for untaken statutory holidays at maximum payment of \$10,500</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	43.29
90% or above	51.79
80% or above	59.36
70% or above	66.14
60% or above	73.77
50% or above	82.40
40% or above	88.38
30% or above	93.49
20% or above	97.14
10% or above	99.00
5% or above	99.67

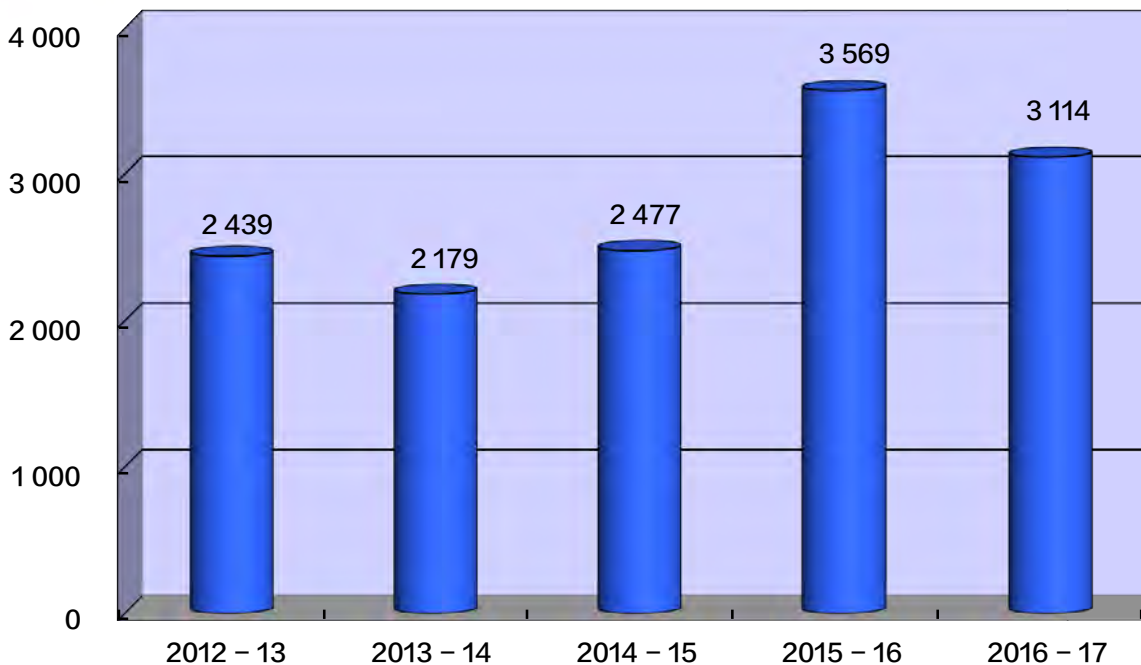
## Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2012-13 to 2016-17

**Figure 1**

**Number of applications received by the Fund from 2012-13 to 2016-17**

(excluding claims for shortfall in ex gratia payment on severance payment)

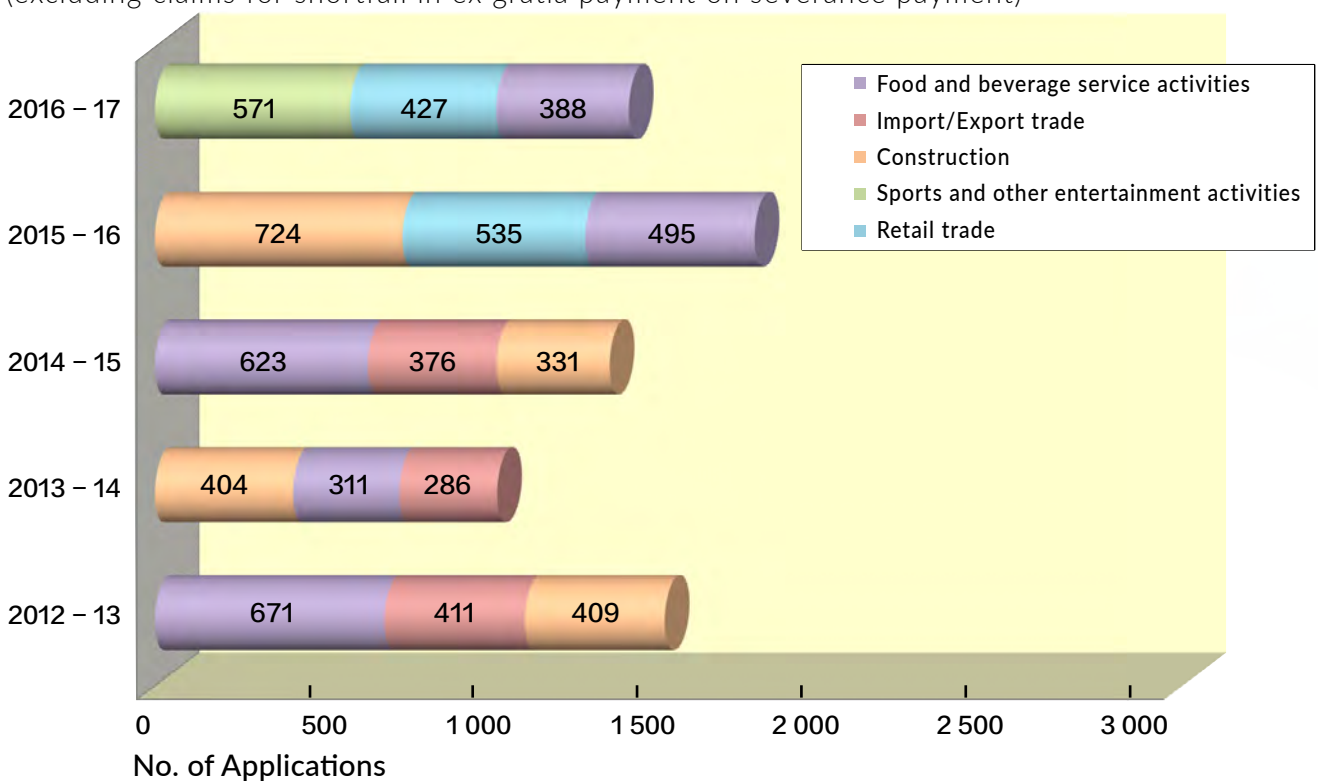
No. of Applications



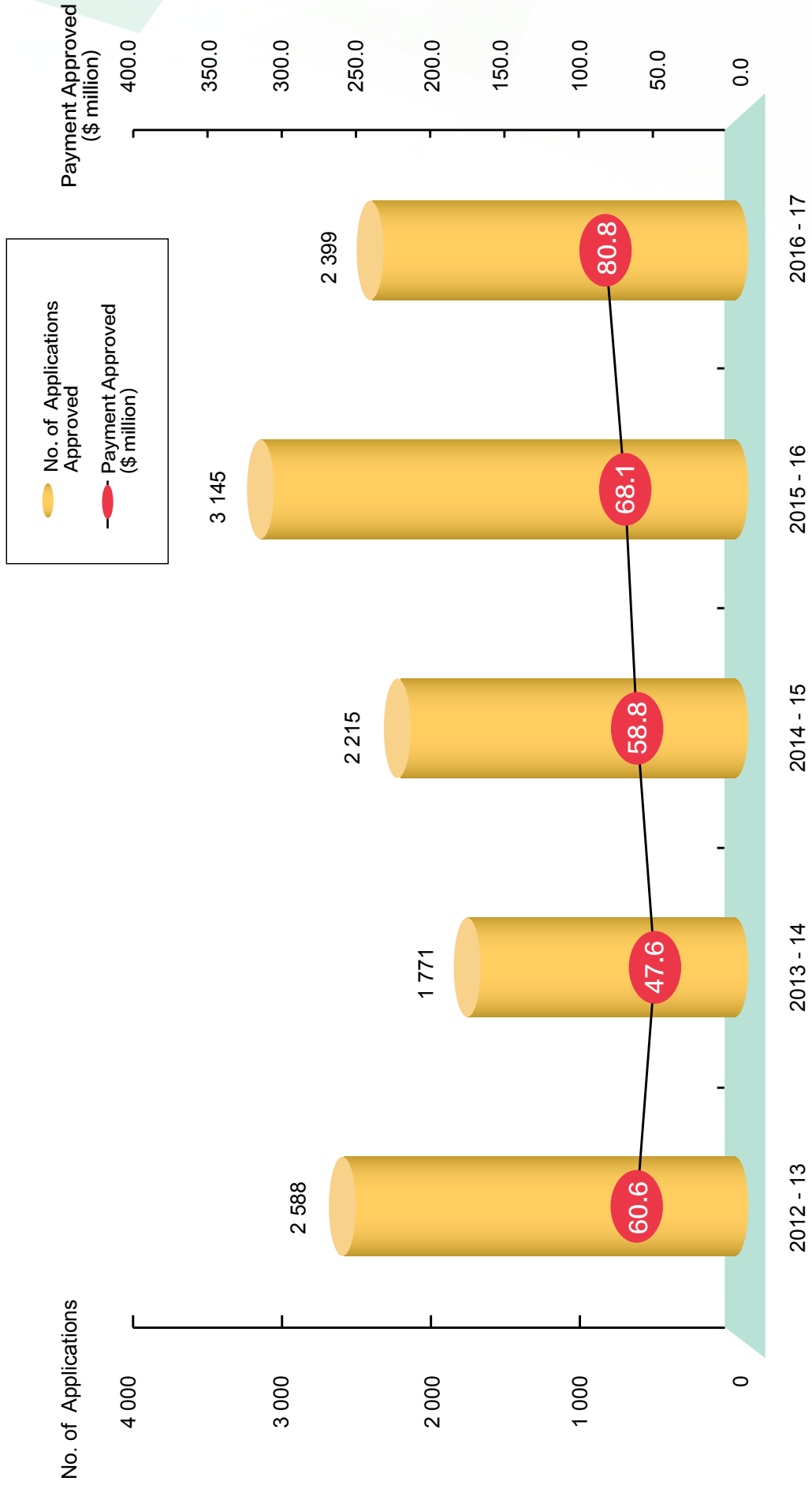
**Figure 2**

**First three industries with the largest number of applications received from 2012-13 to 2016-17**

(excluding claims for shortfall in ex gratia payment on severance payment)

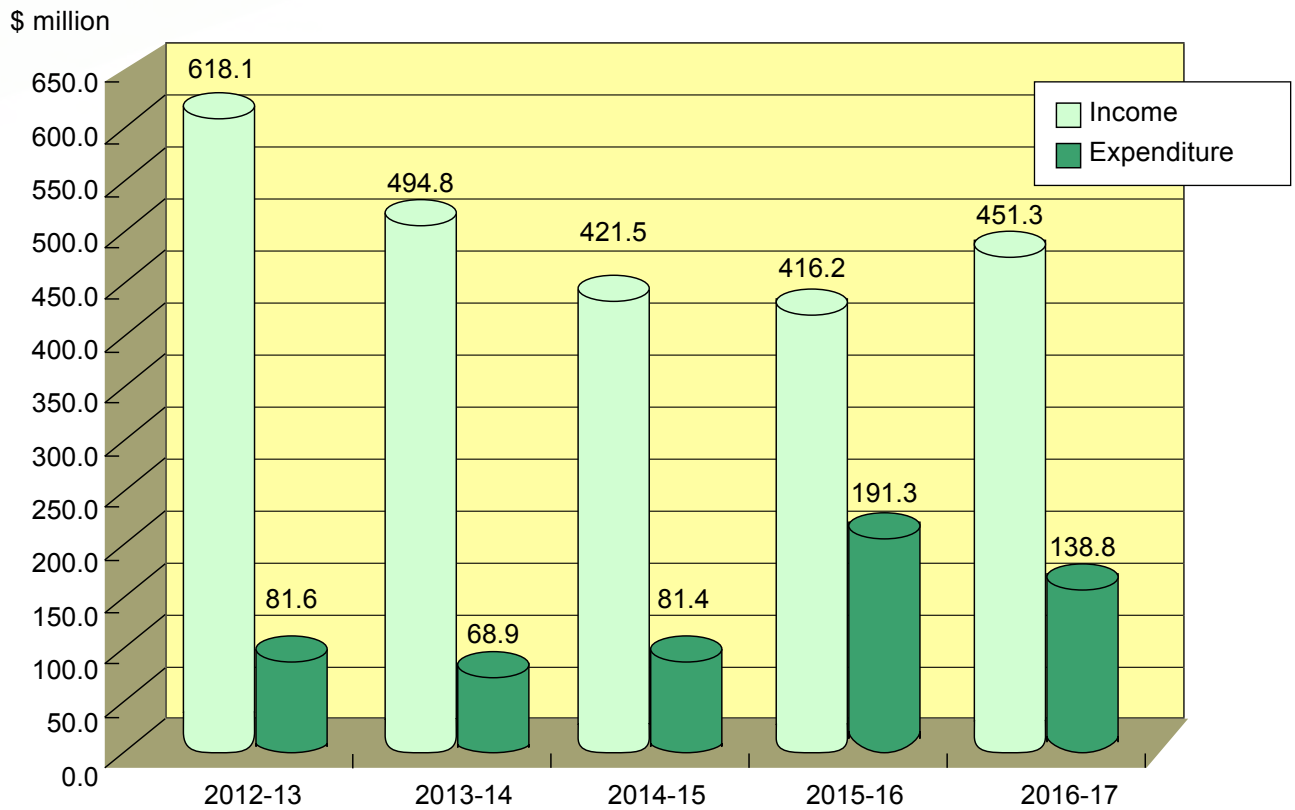


**Figure 3**  
**Number of applications and amount of ex gratia payment approved from 2012-13 to 2016-17**  
 (excluding claims for shortfall in ex gratia payment on severance payment)



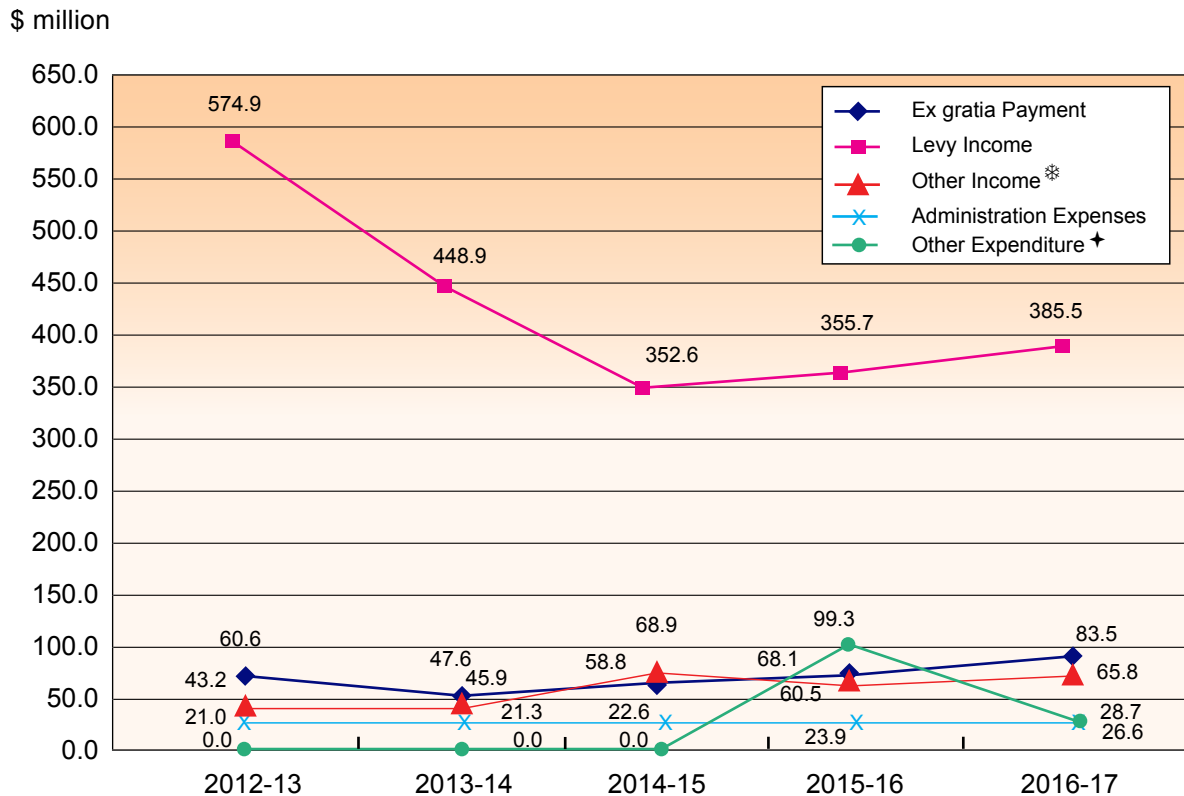
**Figure 4**

**Total income and expenditure of the Fund from 2012-13 to 2016-17**



**Figure 5**

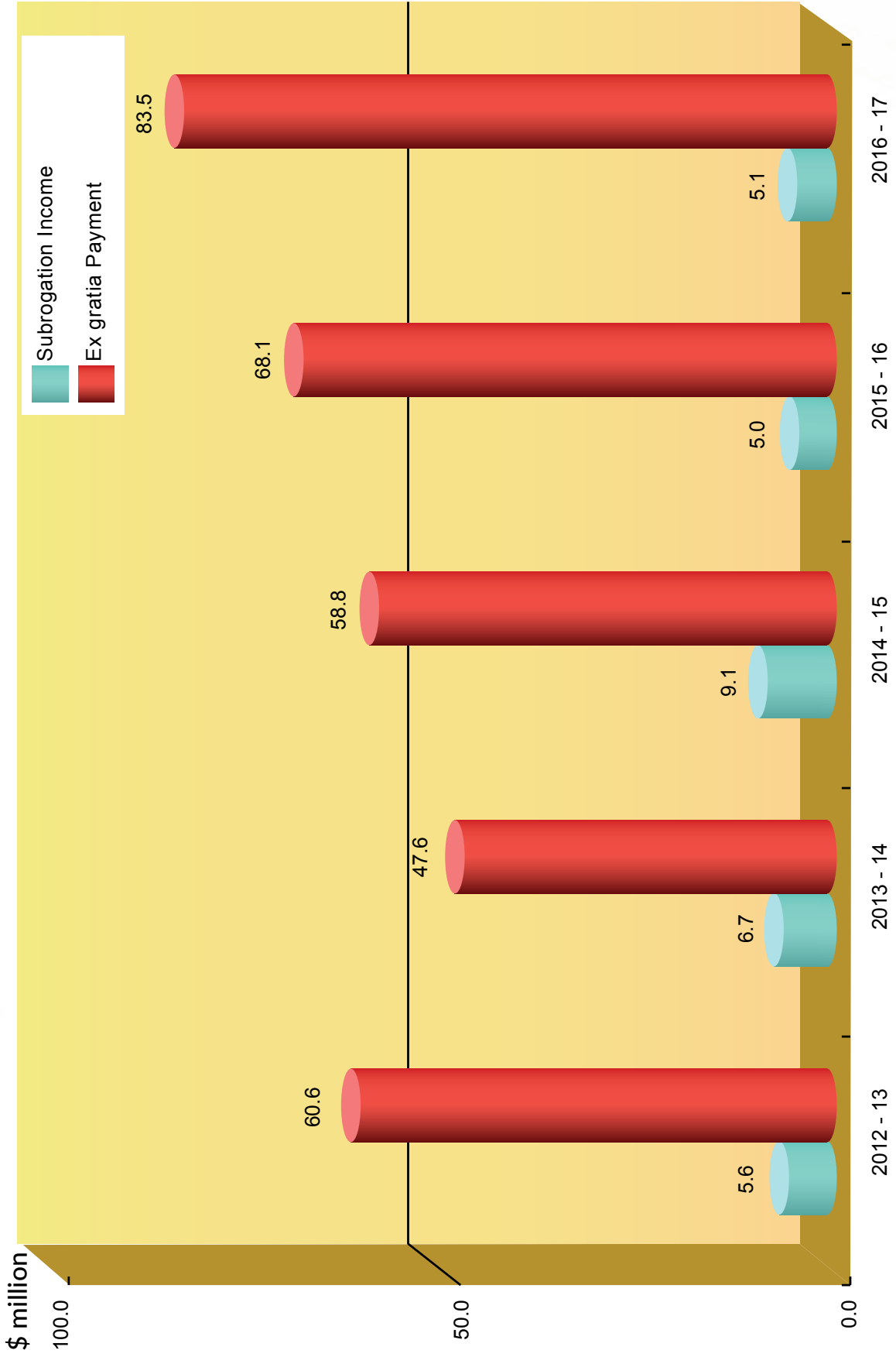
**Breakdown of income and expenditure of the Fund from 2012-13 to 2016-17**



\* Bank deposit interests and money recovered through subrogation

† Provision for/(reversal of provision for) potential claims for ex gratia payments and foreign exchange differences

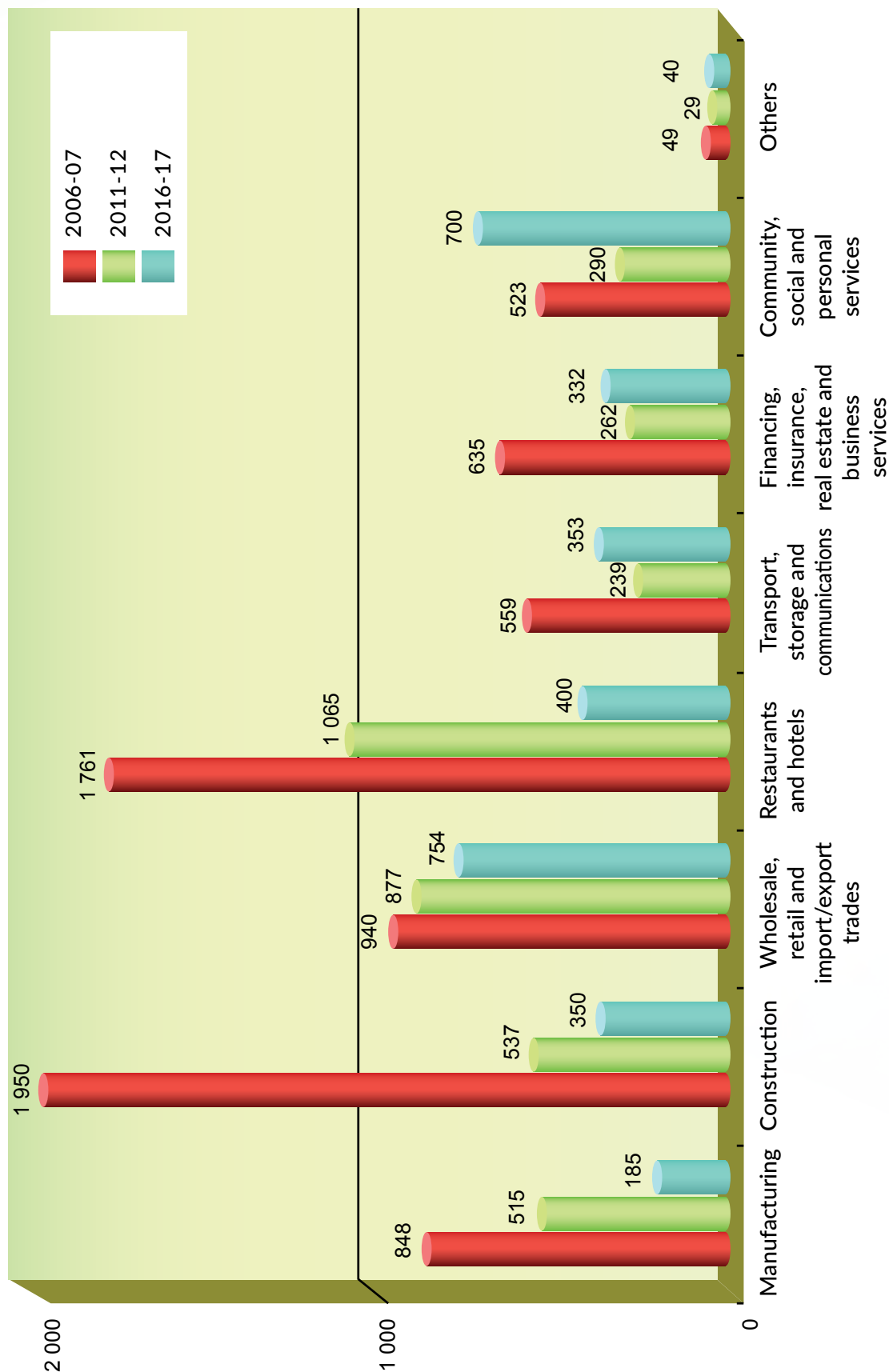
**Figure 6**  
Subrogation income and ex gratia payment of the Fund from 2012-13 to 2016-17



## Analysis of applications received by economic sector in 2006-07, 2011-12 and 2016-17

(excluding claims for shortfall in ex gratia payment on severance payment)

No. of Applications

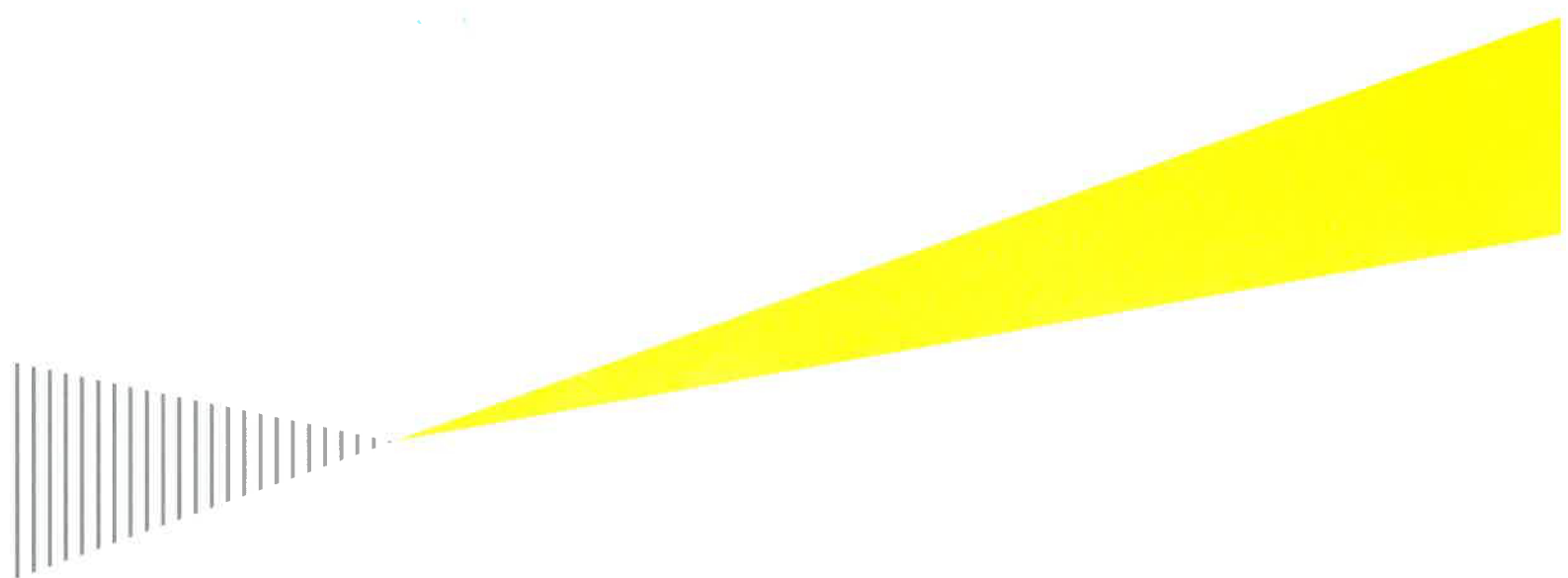




Independent Auditor's Report and Audited Financial Statements

PROTECTION OF WAGES ON INSOLVENCY FUND

31 March 2017



# PROTECTION OF WAGES ON INSOLVENCY FUND

## CONTENTS

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Statement of financial position	5
Statement of changes in funds and reserves	6
Statement of cash flows	7
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## Independent auditor's report

### To members of the Protection of Wages on Insolvency Fund Board

(Established under the Protection of Wages on Insolvency Ordinance)

## Opinion

We have audited the financial statements of the Protection of Wages on Insolvency Fund (the "Fund") set out on pages 4 to 17, which comprise the statement of financial position as at 31 March 2017, and the statement of profit or loss and other comprehensive income, the statement of changes in funds and reserves and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements give a true and fair view of the financial position of the Fund as at 31 March 2017, and of its financial performance and its cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

## Basis for opinion

We conducted our audit in accordance with Hong Kong Standards on Auditing ("HKSAAs") issued by the HKICPA. Our responsibilities under those standards are further described in the *Auditor's responsibilities for the audit of the financial statements* section of our report. We are independent of the Fund in accordance with the HKICPA's *Code of Ethics for Professional Accountants* (the "Code"), and we have fulfilled our other ethical responsibilities in accordance with the Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Information other than the financial statements and auditor's report thereon

The Protection of Wages on Insolvency Fund Board (the "Board") is responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.



**Independent auditor's report (continued)**  
**To members of the Protection of Wages on Insolvency Fund Board**  
(Established under the Protection of Wages on Insolvency Ordinance)

**Responsibilities of the Board for the financial statements**

The Board is responsible for the preparation of financial statements that give a true and fair view in accordance with HKFRSs issued by the HKICPA and the Protection of Wages on Insolvency Ordinance, and for such internal control as the Board determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Board is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Board either intends to liquidate the Fund or to cease operations or has no realistic alternative but to do so.

**Auditor's responsibilities for the audit of the financial statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Our report is made solely to you, as a body, in accordance with the Protection of Wages on Insolvency Ordinance, and for no other purpose. We do not assume responsibility towards or accept liability to any other person for the contents of this report.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with HKSAAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with HKSAAs, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.



**Independent auditor's report (continued)**  
**To members of the Protection of Wages on Insolvency Fund Board**  
(Established under the Protection of Wages on Insolvency Ordinance)

**Auditor's responsibilities for the audit of the financial statements (continued)**

- Conclude on the appropriateness of the Board's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Certified Public Accountants  
Hong Kong  
28 August 2017

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

Year ended 31 March 2017

	Notes	2017 HK\$	2016 HK\$
INCOME	3	<u>451,293,135</u>	<u>416,228,722</u>
EXPENDITURE			
Ex gratia payments	4	83,543,509	68,054,912
Supervision fee	5	25,973,651	22,853,517
Provision for/(reversal of provision for) potential claims for ex gratia payments		( 11,016,058)	99,280,000
Auditor's remuneration		128,000	93,000
Rates and building management charges		334,314	317,235
Insurance		7,090	6,407
Printing and stationery		38,400	37,200
Foreign exchange differences		37,636,579	-
Miscellaneous expenses		<u>2,189,929</u>	<u>649,014</u>
TOTAL EXPENDITURE		<u>138,835,414</u>	<u>191,291,285</u>
SURPLUS AND TOTAL COMPREHENSIVE INCOME FOR THE YEAR	6	<u><u>312,457,721</u></u>	<u><u>224,937,437</u></u>



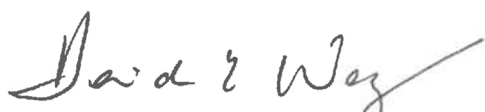


PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF FINANCIAL POSITION

31 March 2017

	Notes	2017 HK\$	2016 HK\$
<b>NON-CURRENT ASSET</b>			
Property	9	-	-
<b>CURRENT ASSETS</b>			
Levies receivable		39,179,800	32,004,500
Interest receivables		17,011,581	14,989,976
Sundry deposits		232,128	49,000
Prepayment		88,000	80,000
Time deposits	10	4,644,752,374	4,357,027,614
Cash at banks	10	317,905	252,102
Total current assets		<u>4,701,581,788</u>	<u>4,404,403,192</u>
<b>CURRENT LIABILITIES</b>			
Approved applications payable		3,812,088	3,894,264
Accrued operation expenses		120,240	101,980
Accrued supervision fee	5	26,000,000	23,000,000
Provision for potential claims for ex gratia payments	11	81,064,791	99,280,000
Total current liabilities		<u>110,997,119</u>	<u>126,276,244</u>
<b>NET CURRENT ASSETS</b>		<u>4,590,584,669</u>	<u>4,278,126,948</u>
Net assets		<u>4,590,584,669</u>	<u>4,278,126,948</u>
<b>FINANCED BY:</b>			
Accumulated surplus		4,574,045,882	4,261,588,161
General reserve	12	16,538,787	16,538,787
Total accumulated funds and reserves		<u>4,590,584,669</u>	<u>4,278,126,948</u>



Dr. David WONG Yau-kar, GBS, JP  
Chairman



Ms. LEUNG Fong-yuen  
Board Member



PROTECTION OF WAGES ON INSOLVENCY FUND  
STATEMENT OF CHANGES IN FUNDS AND RESERVES

Year ended 31 March 2017

	Accumulated surplus HK\$	General reserve HK\$	Total accumulated funds and reserves HK\$
At 1 April 2015	4,036,650,724	16,538,787	4,053,189,511
Surplus and total comprehensive income for the year	<u>224,937,437</u>	<u>-</u>	<u>224,937,437</u>
At 31 March 2016 and at 1 April 2016	4,261,588,161	16,538,787	4,278,126,948
Surplus and total comprehensive income for the year	<u>312,457,721</u>	<u>-</u>	<u>312,457,721</u>
At 31 March 2017	<u><u>4,574,045,882</u></u>	<u><u>16,538,787</u></u>	<u><u>4,590,584,669</u></u>



PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF CASH FLOWS

Year ended 31 March 2017

	Notes	2017 HK\$	2016 HK\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Surplus for the year		312,457,721	224,937,437
Adjustment for bank interest income	3	( 60,683,615)	( 55,504,124)
		251,774,106	169,433,313
Decrease/(increase) in levies receivable	(	7,175,300)	5,345,600
Increase in sundry deposits	(	183,128)	-
Increase in a prepayment	(	8,000)	( 16,667)
Decrease in approved applications payable	(	82,176)	( 883,367)
Increase/(decrease) in provision for potential claims for ex gratia payments	(	18,215,209)	99,280,000
Increase in accrued operation expenses		18,260	6,280
Increase in accrued supervision fee		3,000,000	1,500,000
Net cash flows generated from operating activities		<u>229,128,553</u>	<u>274,665,159</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Interest received		58,662,010	53,115,155
Decrease/(increase) in time deposits with original maturity over three months		<u>226,875,240</u>	<u>(1,565,735,555)</u>
Net cash flows generated from/(used in) investing activities		<u>285,537,250</u>	<u>(1,512,620,400)</u>
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>			
Cash and cash equivalents at beginning of year		<u>456,552,102</u>	<u>1,694,507,343</u>
CASH AND CASH EQUIVALENTS AT END OF YEAR		<u>971,217,905</u>	<u>456,552,102</u>
<b>ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS</b>			
Bank balances	10	317,905	252,102
Time deposits with original maturity of three months or less when acquired	10	<u>970,900,000</u>	<u>456,300,000</u>
		<u>971,217,905</u>	<u>456,552,102</u>



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 1. GENERAL INFORMATION

The Protection of Wages on Insolvency Fund (the “Fund”) was established by the Government of the Hong Kong Special Administrative Region under the Protection of Wages on Insolvency Ordinance of Hong Kong in 1985 for the purpose of providing ex gratia payments to employees whose employers have become insolvent.

The Fund consists principally of moneys received from the Commissioner of Inland Revenue being an annual levy collected on each business registration certificate issued.

### 2.1 BASIS OF PREPARATION

These financial statements have been prepared in accordance with Hong Kong Financial Reporting Standards (“HKFRSs”) (which include all Hong Kong Financial Reporting Standards, Hong Kong Accounting Standards (“HKASs”) and Interpretations) issued by the Hong Kong Institute of Certified Public Accountants (“HKICPA”), accounting principles generally accepted in Hong Kong and the Protection of Wages on Insolvency Ordinance. They have been prepared under the historical cost convention and are presented in Hong Kong dollars (“HK\$”).

### 2.2 CHANGES IN ACCOUNTING POLICIES AND DISCLOSURES

Certain new and revised HKFRSs became effective for the first time during the current financial year but are not applicable to the Fund, and accordingly, they have had no impact on the Fund’s financial statements for the year ended 31 March 2017.

### 2.3 ISSUED BUT NOT YET EFFECTIVE HONG KONG FINANCIAL REPORTING STANDARDS

The Fund has not applied any new and revised HKFRSs that have been issued but are not yet effective for the accounting year ended 31 March 2017 in these financial statements. The Fund is in the process of making an assessment of the impact of these new and revised HKFRSs upon initial application but is not yet in a position to state whether these new and revised HKFRSs would have a significant impact on the Fund’s results of operations and financial position.





31 March 2017

## 2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Property and depreciation

The Fund's property is stated at cost less accumulated depreciation and any impairment losses. The cost of the property comprises its purchase price and any directly attributable costs of bringing the asset to its working condition and location for its intended use. Expenditure incurred after the property has been put into operation, such as repairs and maintenance, is normally charged as an expenditure in the year in which it is incurred.

Depreciation is calculated on the straight-line basis to write off the cost of the Fund's property to its residual value over its estimated useful life, which is the shorter of the lease terms and 20 years from the day the property was first used by the Fund.

Residual value, useful life and the depreciation method are reviewed, and adjusted if appropriate, at least at each financial year-end.

A property is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss on disposal or retirement recognised as income or an expenditure in the year the asset is derecognised is the difference between the net sales proceeds and the carrying amount of the relevant asset.

### Financial instruments

The Fund classifies its financial instruments into the following categories at inception, depending on the purpose for which the assets were acquired or the liabilities were incurred. Regular way purchases and sales of the financial assets are recognised on the trade date, that is, the date that the Fund commits to purchase or sell the asset.

#### (a) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They are initially recorded at fair value plus any directly attributable transaction costs and are subsequently measured at amortised cost using the effective interest rate method, less impairment allowances.

The Fund recognises losses for impaired loans promptly when there is objective evidence that impairment of a loan or a portfolio of loans has occurred. Impairment allowances are assessed either individually for individually significant loans or collectively for loan portfolios with similar credit risk characteristics including those individually assessed balances for which no impairment provision is made on an individual basis.

If, in a subsequent period, the amount of the estimated impairment loss increases or decreases because of an event occurring after the impairment was recognised, the previously recognised impairment loss is increased or reduced by adjusting the allowance account. If a write-off is later recovered, the recovery is credited against expenditures.

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2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Financial instruments (continued)

(b) Financial liabilities

Financial liabilities of the Fund include approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses. All such financial liabilities are initially recognised at the fair value of the consideration received, net of directly attributable transaction costs. After initial recognition, they are subsequently measured at amortised cost using the effective interest rate method.

The fair value of financial instruments that are traded in active markets is determined by reference to quoted market prices or dealer price quotations (bid price for long positions and ask price for short positions), without any deduction for transaction costs. For financial instruments where there is no active market, the fair value is determined using appropriate valuation techniques. Such techniques include using recent arm's length market transactions; reference to the current market value of another instrument which is substantially the same; and a discounted cash flow analysis.

Financial assets are derecognised when the rights to receive cash flows from the assets have expired; or where the Fund has transferred its contractual rights to receive the cash flows of the financial assets and has transferred substantially all the risks and rewards of ownership; or where control is not retained. Financial liabilities are derecognised when they are extinguished, i.e., when the obligation is discharged or cancelled, or expires.

Cash and cash equivalents

For the purpose of the statement of cash flows, cash and cash equivalents comprise cash on hand and demand deposits, and short term highly liquid investments that are readily convertible into known amounts of cash, are subject to an insignificant risk of changes in value, and have a short maturity of generally within three months when acquired, less bank overdrafts which are repayable on demand and form an integral part of the Fund's cash management.

For the purpose of the statement of financial position, cash and cash equivalents comprise cash at banks, including term deposits, which are not restricted as to use.

Operating leases

Leases where substantially all the rewards and risks of ownership of assets remain with the lessor are accounted for as operating leases. Where the Fund is the lessee, rentals payable under operating leases net of any incentives received from the lessor are charged as expenditure on the straight-line basis over the lease terms.

Provisions

A provision is recognised when a present obligation (legal or constructive) has arisen as a result of a past event and it is probable that a future outflow of resources will be required to settle the obligation, provided that a reliable estimate can be made of the amount of the obligation.

When the effect of discounting is material, the amount recognised for a provision is the present value at the end of the reporting period of the future expenditures expected to be required to settle the obligation. The increase in the discounted present value amount arising from the passage of time is included as an expenditure.





31 March 2017

2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue recognition

Revenue is recognised when it is probable that the economic benefits will flow to the Fund and when the revenue can be measured reliably, on the following bases:

- (a) levy income, on an accrual basis for the cash receipts from the Inland Revenue Department;
- (b) interest income, accrued on a time proportion basis, by reference to the principal outstanding and at the interest rate applicable; and
- (c) money recovered by subrogation, when the amounts are received.

Recognition of ex gratia payments

Ex gratia payments are accounted for on an accrual basis for applications approved by the Commissioner for Labour.

Employee benefits

*Pension scheme*

The Fund operates a defined contribution Mandatory Provident Fund retirement benefit scheme (the “MPF Scheme”) under the Mandatory Provident Fund Schemes Ordinance for all of its employees. Contributions are made based on a percentage of the employees’ basic salaries and are charged as expenditures when they become payable in accordance with the rules of the MPF Scheme. The assets of the MPF Scheme are held separately from those of the Fund in an independently administered fund. The Fund’s employer contributions vest fully with the employees when contributed into the MPF Scheme.

Foreign currency transactions

These financial statements are presented in HK\$, which is the Fund’s functional currency. Foreign currency transactions are initially recorded using the functional currency rates of exchange ruling at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies are retranslated at the functional currency rates of exchange ruling at the end of the reporting period. All differences arising on settlement or translation of monetary items are taken to profit or loss.

Non-monetary items that are measured in terms of historical cost in a foreign currency are translated using the exchange rates at the dates of the initial transactions.

# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 3. INCOME

An analysis of income is as follows:

	2017 HK\$	2016 HK\$
Levies	385,473,100	355,685,950
Money recovered by subrogation	5,136,420	5,038,648
Bank interest income	60,683,615	55,504,124
	<u>451,293,135</u>	<u>416,228,722</u>

In accordance with the provisions of Sections 7 and 21 of the Business Registration Ordinance and Section 6 in Part 3 of the Protection of Wages on Insolvency Ordinance, levies of HK\$250 and HK\$750 are respectively imposed on one-year and three-year business registration certificates according to the Business Registration Ordinance (Amendment of Schedule 2) Order 2013.

### 4. EX GRATIA PAYMENTS

In accordance with the provisions of Sections 16(1) and (2) and Section 18(1) in Part 5 of the Protection of Wages on Insolvency Ordinance, the Commissioner for Labour may make ex gratia payments to applicants out of the Fund of the following amounts:

(a) Wages

Not exceeding HK\$36,000, being wages for services rendered not more than four months prior to an applicant's last day of service.

(b) Wages in lieu of notice

Not exceeding the equivalent of one month's wages of the applicant or HK\$22,500, whichever is the lesser, which became due not more than six months prior to the date of application.

(c) Severance payment

Not exceeding the aggregate of HK\$50,000 and half of the part of the applicant's entitlement to severance payment in excess of HK\$50,000, the liability for payment of which arose not more than six months prior to the date of application.



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 4. EX GRATIA PAYMENTS (continued)

#### (d) Pay for untaken annual leave and pay for untaken statutory holidays

The total amount of pay for untaken annual leave and/or pay for untaken statutory holidays not exceeding HK\$10,500, which includes (i) pay for any annual leave earned in the applicant's last full leave year but untaken and pro rata annual leave pay for the last leave year where the applicant has at least three but less than 12 months' service, payable to the applicant upon termination of employment contract under the Employment Ordinance, and (ii) pay for untaken statutory holidays which fell within four months before his last day of service which would have been payable to the applicant had the applicant taken the holidays.

### 5. SUPERVISION FEE

In accordance with the provisions of Section 14 in Part 4 of the Protection of Wages on Insolvency Ordinance, the Financial Secretary may determine a supervision fee, which shall be charged against the income of the Fund, at any time determined by him. An agreement has been reached between the Protection of Wages on Insolvency Fund Board (the "Board") and the Government of the Hong Kong Special Administrative Region that the fee will be two-thirds of the Government's cost of administration in respect of the Fund. The Board however reserves its right of re-negotiation.

### 6. SURPLUS FOR THE YEAR

The Fund's surplus for the year is arrived at after charging:

	2017 HK\$	2016 HK\$
Auditor's remuneration	128,000	93,000
Employee benefit expense:		
Wages and salaries	371,611	259,018
Pension scheme contributions	37,636	27,265
	<u>409,247</u>	<u>286,283</u>
Minimum lease payments under operating leases	<u>555,079</u>	<u>264,356</u>



## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2017

#### 7. REMUNERATION OF MEMBERS OF THE BOARD

No members of the Board received any fees or other emoluments in respect of their services rendered to the Fund during the year (2016: Nil).

#### 8. INCOME TAX

The Fund is exempt from tax under Section 88 of the Inland Revenue Ordinance.

#### 9. PROPERTY

Land and  
building  
HK\$

##### 31 March 2017

At 1 April 2015, 31 March 2016, 1 April 2016 and 31 March 2017:

Cost	27,474,677
Accumulated depreciation	( 27,474,677)
Net carrying amount	-

The property, which is held under a long term lease, represents the Fund's office premises situated in Hong Kong.

#### 10. CASH AT BANKS AND TIME DEPOSITS

	2017 HK\$	2016 HK\$
Bank balances	317,905	252,102
Time deposits with original maturity of:		
Three months or less	970,900,000	456,300,000
More than three months to 12 months, inclusive	<u>3,673,852,374</u>	<u>3,900,727,614</u>
	<u>4,645,070,279</u>	<u>4,357,279,716</u>

At the end of the reporting period, the cash at banks and time deposits of the Fund denominated in Renminbi ("RMB") amounted to RMB325,584,529 (equivalent to approximately HK\$367,552,374) (2016: RMB311,033,062 (equivalent to approximately HK\$387,927,614)). The RMB is not freely convertible into other currencies. However, under Mainland China's Foreign Exchange Control Regulations and Administration of Settlement, Sale and Payment of Foreign Exchange Regulations, the Fund is permitted to exchange RMB for other currencies through banks authorised to conduct foreign exchange business.





PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2017

11. PROVISION

	2017 HK\$	2016 HK\$
At beginning of year	99,280,000	-
Additional provision	-	99,280,000
Amounts utilised during the year	( 7,199,151)	-
Reversal of unutilised amounts	( 11,016,058)	-
At end of year	<u>81,064,791</u>	<u>99,280,000</u>

A provision of HK\$99,280,000 has been recognised for the year ended 31 March 2016 for potential claims from past applicants for the shortfalls in ex gratia payments on severance payments previously made in light of the method of calculation ruled by the Court of Final Appeal (the “CFA”) on 17 May 2016. The provision for such shortfalls has been estimated based on the method of calculation of ex gratia payments on severance payments ruled by the CFA that the relevant past applicants may rely on in claiming the shortfalls. The method of estimation is reviewed on an ongoing basis and is revised where appropriate.

12. GENERAL RESERVE

The levies collected and interest received prior to the establishment of the Fund have been set aside in the general reserve account.

13. OPERATING LEASE COMMITMENTS

The Fund leases a storeroom under an operating lease arrangement with a lease term of two years at fixed monthly rentals.

At 31 March 2017, the Fund had total future minimum lease payments under the non-cancellable operating lease falling due as follows:

	2017 HK\$	2016 HK\$
Within one year	735,420	132,000
In the second to fifth years, inclusive	343,196	-
	<u>1,078,616</u>	<u>132,000</u>



31 March 2017

14. CONTINGENT LIABILITIES

At 31 March 2017, contingent liabilities in respect of applications received but not yet approved and provided for in the financial statements amounted to HK\$125,169,859 (2016: HK\$129,015,202).

A provision has not been recognised in respect of such possible payments as their existence will be confirmed only upon approval by the Commissioner for Labour.

15. FAIR VALUE

At the end of the reporting period, the carrying amounts of the Fund's financial assets and liabilities approximated to their fair values.

The fair values of the financial assets and liabilities are included at the amounts at which the instruments could be exchanged in current transactions between willing parties, other than in forced or liquidation sales.

The fair values of levies receivable, interest receivables, sundry deposits, time deposits, cash at banks, approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses approximate to their carrying amounts largely due to the short term maturities of these instruments.

16. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES

The Fund's principal financial instruments comprise cash and short term deposits. The Fund has various other financial assets and liabilities such as levies receivable, interest receivables, sundry deposits, approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses which arise directly from its operations. The main risks arising from the Fund's financial instruments are credit risk, interest rate risk and foreign currency risk.

*Credit risk*

The Fund's receivable balances are monitored on an ongoing basis and the Fund's exposure to bad debts is not significant. The Fund's maximum exposure on credit risk arising from the default of the counterparties equal to the aggregate carrying amount of these financial assets in the statement of financial position.

*Interest rate risk*

The Fund's major exposure to the risk of changes in market interest rates relates to the Fund's bank balances with floating daily bank deposits rates. The Fund does not currently have any plan to enter into hedge arrangements to manage its interest rate risk.





# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 16. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (continued)

#### *Foreign currency risk*

The risk that the value of a foreign currency denominated financial instrument fluctuates because of a change in the corresponding foreign exchange rate. The Fund does not have any policy for hedging or entering into any forward currency contracts to eliminate the currency exposure on any individual transaction.

The following table demonstrates the sensitivity at the end of the reporting period to a reasonably possible change in RMB exchange rate, with all other variables held constant, of the Fund's surplus (due to changes in the fair value of monetary assets and liabilities).

	Change in the rate %	Increase/ (decrease) in surplus HK\$
<u>2017</u>		
If HK\$ weakens against RMB	1	3,675,524
If HK\$ strengthens against RMB	( 1)	( 3,675,524)
<u>2016</u>		
If HK\$ weakens against RMB	1	3,879,276
If HK\$ strengthens against RMB	( 1)	( 3,879,276)

#### *Capital management*

The primary objective of the Fund's capital management is to safeguard the Fund's ability to continue as a going concern in order to provide ex gratia payments to employees whose employers have become insolvent.

The Fund manages its capital structure and makes adjustments to it in light of changes in economic conditions. No changes were made in the objectives, policies or processes for managing capital during the years ended 31 March 2017 and 31 March 2016.

### 17. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 28 August 2017.

