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Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2008

Purpose

This paper reports on the deliberations of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2008 (the Bill).

Background

2. In the 2008-09 Budget, the Financial Secretary (FS) announced a proposal to make a one-off injection of $6,000 into the Mandatory Provident Fund (MPF) accounts of employees and self-employed persons who earned not more than $10,000 a month[1] at an estimated cost of $8.5 billion.

3. In his Budget Concluding Speech on 23 April 2008, FS elaborated on the scope of the proposed injection, which has been expanded in the light of public concerns. In addition to employees and self-employed persons who held MPF contribution accounts and members of MPF-exempted occupational retirement defined contribution schemes (ORSO DC schemes) as at 29 February 2008, the one-off injection would be expanded to cover persons who were members of ORSO defined benefit schemes (ORSO DB schemes) and those who had recently terminated their employment, if the monthly income of their last employment between 1 March 2007 and 29 February 2008 did not exceed $10,000. As such, the scope of potential beneficiaries will include –

(a) holders of an MPF contribution account as at 29 February 2008;

(b) holders of an MPF preserved account as at 29 February 2008 who last contributed to an MPF account or who were members of MPF-exempted ORSO schemes during the one-year period before

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[1] According to the Administration, $10,000 was the median monthly employment earnings for the whole year of 2007.

announcement of the Budget (i.e. between 1 March 2007 and 29 February 2008);

(c) members of MPF-exempted ORSO DC schemes as at 29 February 2008; and

(d) members of MPF-exempted ORSO DB schemes as at 29 February 2008.

4. According to the latest estimate of the Mandatory Provident Fund Schemes Authority (MPFA), about 1.7 million people will benefit from the proposal. They include about 1.6 million MPF scheme members and about 130 000 ORSO scheme members. As a result of the expansion in the scope of beneficiaries, the estimated expenditure is about $11.5 billion[2].

The Bill

5. The Bill was gazetted on 13 June 2008 and introduced into the Legislative Council (LegCo) on 18 June 2008. It seeks to amend the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) and the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) (General Regulation) to provide for the following :

(a) empower the MPFA to make contributions into an MPF scheme for each eligible member;

(b) stipulate that such contributions would be subject to the same preservation rule and other legislative provisions that apply to employee mandatory contributions in MPF accounts;

(c) empower the MPFA to require the MPF trustees and ORSO employers to provide relevant personal data and information of their members, and provide for financial penalty for failure to comply with MPFA's requirement;

(d) empower the MPFA to make use of the personal data and information received under (c) for the purpose of the injection exercise;

(e) empower the MPFA to require the trustees to inject the contributions in the relevant MPF accounts in accordance with its direction, and provide for financial penalty for failure to comply with the MPFA's direction;

(f) stipulate that the trustees are required to give written notice to the persons concerned after the contributions have been injected into their

[2] This estimate has included a 10% buffer to cater for possible variations when actual data are collected by the MPFA to work out a list of eligible recipients.

MPF accounts, and that non-compliance will be subject to financial penalty;

(g) stipulate that the trustees are required to withdraw the wrongly injected contributions from the relevant MPF accounts in accordance with the direction of the MPFA and provide for a financial penalty for failure to comply with the MPFA's direction; and

(h) stipulate that the new statutory provisions will prevail over those trust deeds which do not allow for contributions from any parties other than the employers, employees and self employed persons as well as any other conflicting provisions in the MPF documents.

The Bills Committee

6. At the House Committee meeting on 20 June 2008, Members agreed to form a Bills Committee to study the Bill. Hon CHAN Kam-lam was elected Chairman of the Bills Committee and the membership list of the Bills Committee is in **Appendix I**. The Bills Committee has held two meetings with the Administration and MPFA.

Deliberations of the Bills Committee

7. In principle, the Bills Committee has no objection to the policy intent underlying the proposed one-off injection to enhance the retirement protection for lower-income working people. However, some members have expressed views and concerns on certain policy and implementation issues. The major issues deliberated by the Bills Committee are summarized in the ensuing paragraphs.

<u>Legislative timetable</u>

8. The Bills Committee notes that the Bill was introduced into the LegCo on 18 June 2008[3] with a view to enacting it within the current legislative session[4]. Some members including Hon LEE Cheuk-yan and Hon CHAN Yuen-han have expressed dissatisfaction that scrutiny of the Bill is subject to a highly compressed timeframe, especially when the Third LegCo is approaching the end of its term. They are of the view that the Administration should have introduced the Bill earlier so as to allow the Bills Committee sufficient time to properly scrutinize the legislative amendments. Some members do not subscribe fully to the need to enact the Bill in haste and see no reason why scrutiny and enactment of the Bill cannot be done in the new term when more time is available for detailed examination of the legislative proposals. Albeit that the Bill seeks to implement a

[3] In accordance with the established procedure, the Bill was considered by the House Committee at its meeting on 20 June 2008 during which members decided to form a Bills Committee to study the Bill.

[4] The last meeting of the Council for the 2007-2008 session is scheduled to be held on 9 July 2008.

proposal to benefit the working population, members in general share the view that the proposed amendments should be carefully examined to ensure that they are in order.

9. In response to members' concern, the Administration has explained that the proposed injection was first announced by FS in his Budget speech on 29 February 2008. Subsequently, its scope was revised in the light of the views of the community, as announced by FS in his Budget Concluding Speech on 23 April 2008. In parallel, the Administration and the MPFA had been working closely together to develop the framework for implementing the proposal, and the MPFA had conducted liaison meetings with relevant trustees to discuss implementation issues and aspects that would require legislative backing. In line with the established practice, the Administration/MPFA briefed the Panel on Financial Affairs (FA Panel) on the legislative proposals on 5 May 2008, and indicated that it would aim to introduce a bill as soon as possible in the current legislative session. As the MPFA needs legal backing to carry out preparatory work such as collecting relevant data from trustees, the Administration appeals to the Bills Committee to support early passage of the Bill. It has also advised that the proposed provisions in the Bill are mainly technical in nature. If the Bill is passed within the current legislative session, the MPFA will issue written notification to the trustees and ORSO employers in July 2008 requiring submission of information covering over 5 million accounts. In addition, the MPFA has embarked on the enhancement of its computer system for storing, consolidating and processing the large amount of account information expected to be received in around November 2008. It will follow up with the trustees and employers where necessary in order to complete compilation of a list of eligible recipients as early as possible. Funding approval from the Finance Committee will be sought with a view to commencing injection of funds into relevant accounts within 2008-09.

10. Not all members of the Bills Committee are convinced by the Administration's explanation. They caution about possible adverse consequences of passing legislation in haste. Hon CHAN Yuen-han has maintained her criticism that scrutiny of the Bill and related issues has been subject to an extremely tight timeframe and that such an arrangement is highly undesirable and unfair to Members.

Framework for implementation

11. The Bills Committee notes that the government injection will be made via the MPFA. The Administration will sign a written agreement with the MPFA setting out the eligibility criteria as described in paragraph 3 above, the obligations of the Government and the MPFA, as well as related arrangements between the two parties. After obtaining approval from the Finance Committee, the Government will transfer the necessary funds to the MPFA which will interface with the trustees and employers (as well as individual employees and self-employed persons (SEPs) if necessary) for implementation.

12. Both MPF schemes and ORSO schemes are privately managed by trustees. The MPFA has regulatory oversight over the operation of these schemes in accordance with the MPF and ORSO legislation but does not maintain a central database on the account holders. To implement the proposed injection, the MPFA would need to compile a list of eligible recipients and their MPF/ORSO accounts. The MPFA will need to collect information on about 5 million accounts from 19 MPF trustees, over 100 ORSO trustees and around 7 000 employers providing ORSO schemes. It will also need to conduct a central matching exercise to identify multiple account holders and aggregate their monthly income to ascertain their income eligibility.

13. The Bills Committee also notes that under the existing MPFSO, withdrawal of accrued benefits can only take place when the MPF scheme member reaches the age of 65, except under specified circumstances such as early retirement, total incapacity or permanent departure from Hong Kong. In order that the injection for ORSO scheme members would be subject to the same preservation requirement, the injection for those eligible ORSO scheme members who do not have any MPF account would be made into an MPF preserved account to be opened for each of them for the purpose of receiving the injected funds.

14. In this connection, members note that the eligibility criteria and the amount of contribution to be made to each account in this injection exercise are not specified in the Bill. Instead, they would be set out in the written agreement between the Government and the MPFA.

Eligibility criteria

15. The Administration has explained that pursuant to the eligibility criteria listed in paragraph 3 above, members of MPF schemes and members of ORSO DC and DB schemes who were employed or self-employed as at 29 February 2008 with a monthly income not exceeding $10,000 in any one of the months of December 2007, January and February 2008, as well as those members who have been in employment or self employment at any time during the one-year period from 1 March 2007 to 29 February 2008 and with a monthly income not exceeding $10,000 in one of the last three months of their last employment/self employment during that period[5] would be eligible to receive the government injection. The Administration considers the eligibility criteria a balanced and practicable approach, taking into consideration the policy intention of the proposal, the well-being of workers who were temporarily unemployed and the financial implications. The methodology and procedural steps that will be adopted by the MPFA to assess income eligibility and to effect the injection are explained in **Appendix II**.

16. In the course of deliberation, members have sought clarification from the Administration/MPFA on the eligibility or otherwise of persons under different circumstances, such as an employee who was unemployed for part or whole of the

[5] During the one-year period, the relevant person must have made contributions to an MPF account in respect of his employment/self employment concerned or was an ORSO scheme member.

one-year period from 1 March 2007 to 29 February 2008, an employee who passed away on or after 1 March 2008, persons aged 60 to 65 or above etc.[6]

17. As regards employees whose employers have not duly enrolled them to a MPF scheme on or before 29 February 2008, the Administration's advice is that the MPFA will step up public education and publicity to urge such persons to report the non-enrolment cases to the MPFA for follow-up action. After the employer has enrolled the employees and paid the MPF contributions, the employees concerned will be eligible for the $6,000 injection if they meet the income criteria.

18. Noting that the circumstances of individual cases may vary, some members have questioned whether details of the eligibility criteria are sufficiently clear, and stressed the need for more explanation on the application of such criteria to avoid ambiguity. In response, the Administration has set out in writing the relevant information in **Appendix III**.

19. To allow more flexibility in ascertaining the income eligibility, some members have discussed with the Administration the feasibility of other suggestions, such as using the average monthly income of the 12 months from 1 March 2007 to 29 February 2008, or a person being eligible if for any one month during the 12-month period, his monthly income did not exceed $10,000.

20. The Administration's view is that to define the eligibility criteria for initiatives announced in the Budget, the usual practice is to make reference to the latest available data (such as the latest income) at the time of announcement. However, in consideration that the announcement of the 2008-09 Budget soon after Chinese New Year might have coincided with salary increases or payment of bonuses, both of which might have the effect of boosting employees' last monthly income above $10,000, the Administration has already adopted a more flexible approach by making reference to the monthly income of the two consecutive preceding months as well. According to the Administration, the suggestion of using a 12-month average will deviate from the principle of using the latest income information for eligibility assessment and hence, should not be adopted. Moreover, it will give rise to operational difficulties, especially in relation to ORSO schemes as their trustees are not required by law to maintain the salary records of their scheme members for as long as 12 months. Most of the employers of the current 7 000 ORSO schemes are small and medium enterprises. Requiring them to furnish information on the salaries of their serving and past employees over a past 12-month period will impose an onerous burden on them.

Payment of special contribution

21. Amendments to the MPFSO and the General Regulation are necessary as they currently only provide for contributions to be made to MPF accounts by employers, employees and SEPs. Under the Bill, the MPFA is empowered to direct trustees to deposit the special contribution (i.e. $6,000 in this case) into the

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[6] The clarification provided by the Administration is set out in LC Paper No. CB(1)2066/07-08(01).

relevant MPF accounts and to notify the individual members concerned of the payment after it has been made.

22. The Bills Committee notes that the special contribution will be subject to the same preservation rule and other legislative provisions that apply to employee's mandatory contributions in existing MPF accounts, i.e. a member may only withdraw his accrued benefits upon attaining the age of 65 except under specified circumstances. In this connection, some members including Hon LEE Cheuk-yan are of the view that to provide timely assistance, the Administration should allow flexibility for the eligible person to withdraw the special contribution before the age of 65, such as by treating it as voluntary contribution to which the preservation rule does not apply. This may provide some relief to lower income and disadvantaged groups to tide over immediate difficulties, in particular in the face of inflation and a rising cost of living.

23. The Administration's view is that the objective of the proposed injection is to enhance retirement protection and boost the savings of low-income workers for their retirement. It is not intended for providing immediate financial relief to the needy. Regarding support measures targeted at disadvantaged groups and the community as a whole, the Administration has highlighted that a host of other measures have been announced in the 2008-09 Budget to provide financial relief to them, such as the electricity charge subsidy, the provision of an additional one-month standard rate of Comprehensive Social Security Assistance payments and the one-off grant of $3,000 to recipients of Old Age Allowance etc.

24. In this connection, Hon LEE Cheuk-yan has given notice to move a Committee Stage amendment (CSA) to the Bill to the effect that the special contribution will not be subject to the preservation rule and may therefore be withdrawn prior to the age of 65. Hon CHAN Yuen-han has also given notice on 27 June 2008 to move a CSA to proposed Part IIIA of the Bill stipulating that the "special contribution" refers to the contribution paid into an account of a member of a registered scheme by the Government when its annual consolidated surplus is more than 50 billion dollars. At its meeting on 30 June 2008, the Bills Committee noted that according to Miss CHAN, the CSA sought to require the Government to make an injection of funds into MPF accounts upon achieving a consolidated surplus exceeding $50 billion dollars. It nevertheless noted that the proposed CSA, worded along the above lines, merely provided a definition on "special contribution". It appeared that it might not have the effect of imposing an obligation on the Government to make the special contribution under the specified circumstances.

25. On the legal and drafting aspects, the Bills Committee notes its legal adviser's comment that since the obligation imposed on the MPFA to pay a special contribution under the proposed section 19B(1) does not appear to be mandatory, an aggrieved person may not have a cause of action against the MPFA if it has failed to pay the special contribution into that person's relevant account or has paid the sum to a wrong account.

26. The Bills Committee further notes that in the view of its legal adviser, as the proposed section 19B of the Bill states that the special contribution is to be paid into an account of a member of a registered scheme, it appears to be contradictory when the proposed section 19D(3) states that an approved trustee may be required to register a person as a member of the scheme. Given that the policy intent of the Administration is to benefit members of ORSO schemes, the legal adviser considers that the present drafting does not seem to achieve the purpose. The Administration's advice is that the proposed section 19D(3) is to empower the MPFA to require an approved trustee to set up MPF preserved accounts for those ORSO scheme members eligible for the special contribution but who do not have MPF accounts. The Administration considers that the present drafting will achieve the intended purpose. Members note the difference in opinions over the effect of the proposed section 19D.

Complaint-handling or review mechanism

27. The Bills Committee notes that the Bill has not provided for a mechanism to handle complaints or requests for review arising from the injection exercise. Instead, the MPFA will put in place administrative arrangements to deal with complaints from any aggrieved person. As explained by the Administration, after identifying a list of eligible recipients/accounts, the MPFA will give instructions to the trustees to inject $6,000 into the relevant MPF accounts. The MPFA will require the trustees to give written notification to the recipients after the injection has been made. Clear guidelines will be provided to the trustees. Individuals who do not receive the notification but consider themselves eligible for the injection may enquire or lodge complaints with the MPFA within a specified period.

28. Members are concerned about details of the complaint-handling or review mechanism, including the timeframe for actions. In response, the Administration has advised that the MPFA will work out the arrangements after enactment of the Bill. Before the Administration submits the relevant funding proposal to the Finance Committee, the MPFA will provide detailed information on the complaint-handling or review arrangements to the FA Panel. Where necessary, members are at liberty to give views or seek further clarification. Some members have pointed out that a reasonable lead time of several months after the injection should be allowed for aggrieved persons to lodge their complaints with the MPFA. Extensive prior publicity should also be launched to apprise the public of the injection. The MPFA has assured members that it will publicize the injection exercise and eligibility criteria through public announcements, advertisements, leaflets and other means.

29. The Bills Committee notes that the handling of review cases will be monitored by a dedicated committee set up under the MPFA consisting of non-executive directors to oversee the implementation of the injection project. Upon completion of the review, the MPFA will notify the persons concerned of the outcome in writing. In response to members' call for greater transparency, the MPFA has agreed to consider making public the summaries of the cases found to be

eligible for reference by the public.

30. Question has been raised on the decision-making power vested with the MPFA and the person/entity that ultimately decides on a person's eligibility for the injection. In this regard, the Administration advises that the Bill does not seek to confer on the MPFA a statutory power to determine a person's eligibility for the injection. Instead, pursuant to the written agreement to be signed with the Government, the MPFA will be tasked to effect the one-off injection in accordance with the eligibility criteria specified by the Government. When working out the detailed arrangements, the MPFA will take note of the Bills Committee's views on whether the decision on individual cases should be made by an authorized person or by a committee of the MPFA.

<u>New statutory provisions to prevail over any instruments applicable to registered schemes</u>

31. The Bill contains provisions to stipulate that in case there is any inconsistency between the new statutory provisions and any provisions in the various documents relating to the MPF schemes including the governing rules of the scheme, the participation agreement, any articles or memorandum, those provisions in the documents concerned shall not apply to that scheme.

32. In response to the Bills Committee's request for elaboration, the Administration has explained that under the proposed section 19F of the Bill, the provisions of the MPFSO shall apply to special contributions in the same way as they apply to mandatory contributions paid in respect of an employee or a self-employed person. As a result, the obligations and liabilities of the trustees as stipulated under the MPFSO for dealing with mandatory contributions shall apply in respect of special contributions made under the new Part IIIA. The purpose of the proposed section 19H is to ensure that the provisions under the new Part IIIA will prevail in case there is any inconsistency between the new Part IIIA and the provisions in the specified instruments.

33. In this connection, the Bills Committee notes that its legal adviser has expressed reservation as to the effectiveness of the proposed sections 19F and 19H to make the relevant trust deed and specified instrument applicable to the special contribution. The MPFA has confirmed that all approved trustees have been informed of the proposed amendments and none has raised any operational difficulties to deal with the special contributions in the same way as mandatory contributions. The MPFA has also informed members that it has obtained re-confirmation to this effect from most of the trustees. It has undertaken to continue to liaise with the trustees during the implementation of the injection exercise.

Committee Stage Amendments

34. The Administration has not proposed any CSA to the Bill. The Bills Committee has not proposed to move any CSA to the Bill in its name. However, Hon CHAN Yuen-han and Hon LEE Cheuk-yan have given notice to move CSAs. The Bills Committee notes but has not taken a position on the CSAs proposed to be moved by the two members in their personal capacity.

Recommendation

35. The Bills Committee has considered and agreed to the Administration's proposal to resume the Second Reading debate on the Bill on 9 July 2008. In view that the deadlines for giving notices for resumption of Second Reading debate and the moving of CSAs to the Bill have lapsed before completion of scrutiny, the Bills Committee has recommended to the House Committee to seek the President's permission under Rules 54(5) and 57(2) of the Rules of Procedure to dispense with the relevant notices.

Consultation with the House Committee

36. The House Committee was consulted on 4 July 2008 and supported the recommendation of the Bills Committee in paragraph 35.

Council Business Division 1
Legislative Council Secretariat
7 July 2008

Appendix I

Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2008

Membership list

Chairman	Hon CHAN Kam-lam, SBS, JP
Members	Hon Albert HO Chun-yan Hon LEE Cheuk-yan Hon CHAN Yuen-han, SBS, JP Hon SIN Chung-kai, SBS, JP Hon LI Fung-ying, BBS, JP Hon Albert CHAN Wai-yip Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon LEUNG Kwok-hung Hon WONG Ting-kwong, BBS Hon Ronny TONG Ka-wah, SC Hon TAM Heung-man
	(Total : 12 Members)
Clerk	Miss Polly YEUNG
Legal Adviser	Mr KAU Kin-wah
Date	27 June 2008

Appendix II

Methodology and Procedural Steps on Eligibility Assessment and Injection

The MPFA will assess an individual's income eligibility by adopting the following procedures –

(i) identify the last available monthly income ("anchored income") of the account-holder within the 12-month period between 1 March 2007 and 29 February 2008;

(ii) identify the lowest monthly income in the three consecutive months from (and including) the month of the anchored income, i.e. the anchored income and the monthly income in the two immediately preceding months; if the lowest monthly income identified does not exceed $10,000, then that person will be eligible for the injection; and

(iii) for a person who holds multiple MPF/ORSO accounts, follow step (ii) and aggregate the monthly income of that person for each of the respective months; if the lowest aggregate monthly income in the three months does not exceed $10,000, then that person will be eligible for the injection.

2. For casual employees under the MPF industry schemes viz. workers in the construction and catering industries, in view of the sporadic nature of their employment, the MPFA will determine their monthly income using their average monthly income over the 12-month period between 1 March 2007 and 29 February 2008. If the average monthly income does not exceed $10,000, then the casual employee concerned will be eligible for the injection.

3. After identifying a list of eligible recipients / accounts, the MPFA will give instructions to the trustees to inject $6,000 into the relevant MPF accounts[7].

[7] The injection will be made to the MPF account of the highest balance as at 29 February 2008 if the recipient has more than one MPF account.

For information

Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2008

Eligibility criteria for the injection to MPF accounts

Purpose

To demonstrate the Government's commitment to enhancing retirement protection for the lower-income working people, the Financial Secretary announced in the 2008-09 Budget and subsequently during the Budget Concluding Speech on 23 April 2008 that a one-off injection of $6,000 would be made to the Mandatory Provident Fund ("MPF") accounts of eligible persons. The Mandatory Provident Fund Schemes Authority ("MPFA") will be responsible for implementing the injection exercise. The Administration briefed Members of the LegCo Panel on Financial Affairs on the principal criteria for eligibility at the meeting on 5 May 2008, and explained further details concerning the assessment of eligibility and other arrangements of the injection exercise via the LegCo Brief issued on 10 June 2008 and attendance with the MPFA at the meetings of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2008 ("the Bill") on 27 and 30 June 2008. This paper consolidates the information provided to Members as mentioned above on the criteria which would be followed by the MPFA in assessing whether an individual is eligible to receive the injection.

Eligibility Criteria

2. The following categories of persons would be eligible for the injection if they meet the monthly income threshold requirement of earning not more than $10,000 a month -

(i) holders of an MPF contribution account on 29 February 2008;

(ii) members of MPF-exempted Occupational Retirement defined contribution schemes on 29 February 2008;

(iii) members of MPF-exempted Occupational Retirement defined benefit schemes on 29 February 2008;

(iv) holders of an MPF preserved account (who do not have any MPF contribution accounts) on 29 February 2008 who last contributed to an MPF contribution account between 1 March 2007 and 29 February 2008; and

(v) persons not covered in categories (i) to (iv) above but were members of an MPF Exempted Occupational Retirement Scheme ("ORSO scheme") (including defined contribution and defined benefit schemes) between 1 March 2007 and 29 February 2008.

3. The MPFA will assess whether the persons mentioned in paragraph 2 above are eligible for the injection based on the following criteria -

(i) if the lowest monthly income in the three consecutive months from (and including) the month of the anchored income (which means the last available monthly income record and the monthly income record in the two immediately preceding months) does not exceed $10,000, then that person will be eligible for the injection;

(ii) "anchored income" refers to the last available monthly income among all the months with income records in the period between 1 March 2007 and 29 February 2008;

(iii) if a person is not employed for the full period in those three consecutive months as illustrated in Example (III) in the Annex, the MPFA will assess whether that person would be eligible for the injection based on the income information in those months with income records;

(iv) for a person who holds multiple MPF/ORSO accounts, his monthly income for each of the respective months will be aggregated; if the lowest aggregate monthly income in the three months does not exceed $10,000, then that person will be eligible for the injection; and

(v) for casual employees under the MPF industry schemes viz. workers in the construction and catering industries, in view of the sporadic nature of their employment, the MPFA will determine their monthly income using their average monthly income between 1 March 2007 and 29 February 2008. If the average monthly total income does not exceed $10,000, then the casual employee concerned will be eligible for the injection.

4. The MPFA will adopt the following criteria in handling special cases below -

(i) Change in employment or deceased after 29 February 2008

Any person who meets the eligibility criteria for the injection would remain eligible for the injection even if there are changes to his income or employment after 29 February 2008, or if he has ceased employment or passed away after 29 February 2008.

(ii) Employees commencing employment on or before 29 February 2008 but have not been enrolled in an MPF scheme by the employer by that date.

If an employee has commenced employment on or before 29 February 2008 and meets the other eligibility criteria for receiving the injection but his employer has not enrolled him in an MPF scheme by that date, the employee concerned can inform the MPFA of the case so that the MPFA can take follow-up actions as soon as possible. After the employee has been enrolled and an MPF account for him is opened, the employee will receive the injection. The MPFA urges the employees concerned to inform the MPFA on these cases as soon as possible.

(iii) Employment commenced in February 2008 but procedures for opening an MPF contribution account were completed after 29 February 2008

The existing legislation requires an employer to enroll an employee who maintained employment with him in an MPF scheme within 60 days after commencement of the latter's employment. As such, if the employee commenced his employment in February 2008, the employee may not have an MPF contribution account on 29 February 2008. In these cases, if the employee meets the income eligibility requirement, he will receive the injection after completion of enrollment procedures.

5. Relevant examples to illustrate the application of the eligibility criteria mentioned above are set out in the **Annex**. The MPFA will publish publicity pamphlets to inform the public of the eligibility criteria and other relevant information about the injection exercise.

6. The MPFA will direct the trustees to pay the contributions to the relevant MPF accounts according to the list of eligible recipients, and to give written notification to the recipients after the injection was made. The MPFA will set up a mechanism for those who do not receive the injection but consider themselves eligible to request a review of their cases. The MPFA intends that members of the public may submit applications for review within a period of two to three months after completion of the injection. The MPFA has briefed the Bills Committee on the broad arrangements for handling public enquiries and applications for review. They will take into account views of Members of the Bills Committee in drawing up the detailed arrangements. Before the Administration seeks funding approval from the LegCo Finance Committee, the MPFA will provide the LegCo Panel on Financial Affairs with further information about the time line and detailed arrangements of this mechanism for public information.

Next steps

7. If the Bill is passed within the current legislative session, the MPFA will give written notification to the trustees and ORSO employers in July 2008 requiring submission in specified format of information covering over 5 million accounts. In view of the large volume of information involved, the MPFA needs to allow sufficient time for the trustees and employers to make the preparation. In parallel, the MPFA has embarked on enhancement of its computer system for storing, consolidating and processing the large amount of account information to

be received. The MPFA expects to receive the information from the trustees and employers in around November 2008. The MPFA will follow up with the trustees and employers to seek clarification of the information where necessary in order to complete compilation of a list of eligible recipients as early as possible to tie in with the work of the Administration in seeking funding approval from the LegCo Finance Committee.

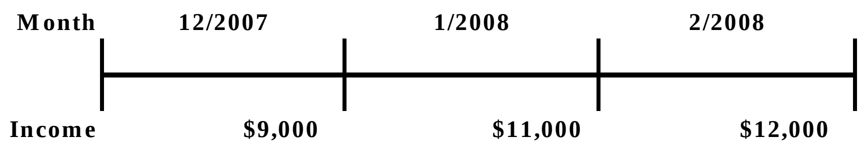
Financial Services and the Treasury Bureau
July 2008

Annex

Examples on Application of the Eligibility Criteria

Example (I) An employee has only one employment covering the employment period from December 2007 to February 2008.

Income for December 2007 : $9,000
Income for January 2008 : $11,000
Income for February 2008 : $12,000

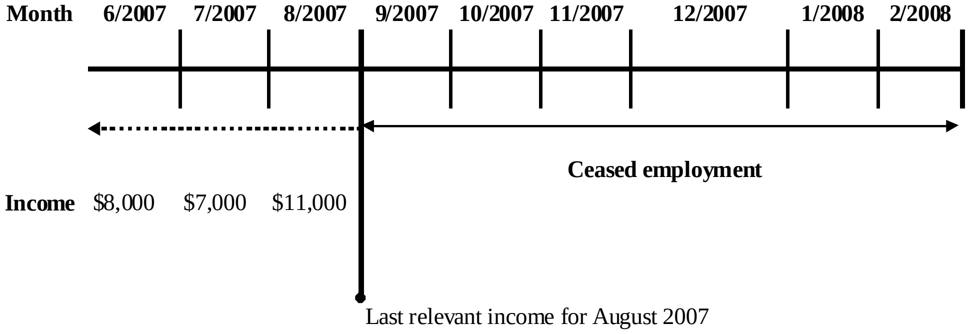


The income for December 2007 is the lowest among the three months and does not exceed $10,000. The employee is eligible to receive the injection.

Example (II) An employee was under employment in June, July and August 2007 but has ceased employment since September 2007.

Income for June 2007 : $8,000
Income for July 2007 : $7,000

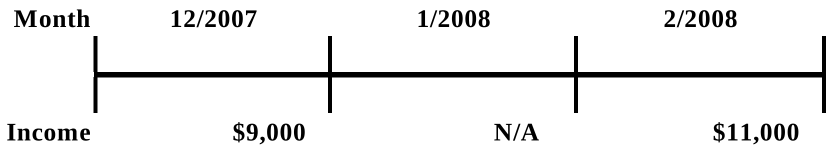
Income for August 2008 : $11,000



The income for July is the lowest among the three months of June, July and August and does not exceed $10,000. The employee is eligible to receive the injection.

Example (III) An employee was engaged in a former employment in December 2007 and before and he started a new employment in February 2008, but he was not employed in January 2008.

Income for December 2007 : $9,000
Income for January 2008 : Not applicable (Not employed)
Income for February 2008 : $11,000



The employee has income record for only two of the three months, and the income for December 2007 is the lowest and does not exceed $10,000. The employee is eligible to receive the injection.

Example (IV) An employee was engaged in a full-time job and a part-time job at the same time during the period from December 2007 to February 2008.

	Full-time job	**Part-time job**	**Aggregate income**
Income for December 2007	$8,500	$1,600	$10,100
Income for January 2008	$8,500	$2,000	$10,500
Income for February 2008	$8,500	$1,300	$9,800

The aggregate income for February 2008 is the lowest among the three months and does not exceed $10,000. The employee is eligible to receive the injection.