

**For discussion on
5 May 2008**

Legislative Council Panel on Financial Affairs

**Proposal on Government Injection into Accounts
of Members of Mandatory Provident Fund Schemes
and Occupational Retirement Schemes**

Introduction

This paper sets out the details of the Government proposal to make a one-off injection of \$6,000 into accounts of eligible members of the Mandatory Provident Fund (“MPF”) Schemes and MPF-exempted Occupational Retirement Schemes (“ORSO schemes”), and seeks Members’ views on the legislative proposals for implementing the proposed measure.

Details of the Proposal

Scope

2. The Financial Secretary announced the proposal in the 2008-09 Budget which demonstrates the Government’s commitment to enhancing retirement protection. He gave further elaboration on the scope of the proposed injection in his Budget Concluding Speech on 23 April 2008, which will be expanded to cover persons described below if they each earn not more than \$10,000 a month –

- (i) holders of an MPF contribution account on 29 February 2008;
- (ii) holders of an MPF preserved account on 29 February 2008 who last contributed to an MPF account or was an ORSO scheme member during the one-year period before announcement of the Budget (i.e. between 1 March 2007 and 29 February 2008);
- (iii) members of MPF-exempted ORSO defined contribution schemes

- (“ORSO DC schemes”) on 29 February 2008; and
- (iv) members of MPF-exempted ORSO defined benefit schemes (“ORSO DB schemes”) on 29 February 2008.

3. In other words, in addition to employees and self-employed persons who have MPF contribution accounts and members of those ORSO schemes which are DC schemes on 29 February 2008 covered in the proposal announced in the 2008-09 Budget, the expanded scope of the proposed injection will also cover those who have recently terminated their employment as well as all those who opted to join an ORSO DB scheme rather than an MPF scheme, if the monthly income of their last employment between 1 March 2007 and 29 February 2008 did not exceed \$10,000.

Income Criterion

4. The MPFA will adopt the following procedures to assess whether a person referred to in paragraph 2 above meets the income criterion –

- (i) identify the last available monthly income (“anchored income”) of the account-holder within the 12-month period ending on 29 February 2008 (i.e. the 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 persons who hold multiple MPF/ORSO accounts, follow step (ii) and aggregate the monthly income for each of the respective months; if the lowest aggregated monthly income in the three months does not exceed \$10,000, then that person will be eligible for the injection.

5. 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 average 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.

Estimated Number of Beneficiaries and Financial Implications

6. According to the latest estimate provided by the 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.

7. Based on the revised estimate on the number of beneficiaries, the amount of funds required will increase from \$8.5 billion to \$11.5 billion¹.

Legislative Proposals

8. To implement the proposed injection, we propose to amend the Mandatory Provident Fund Schemes Ordinance (“MPFSO”) to provide a legislative framework for the MPFA to take necessary steps in collaboration with the MPF trustees and ORSO trustees / employers to implement the injection. The major legislative proposals include -

- (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 (e.g. the name, HKID number and income of each

¹ The estimated funding requirement of \$11.5 billion has taken into account a 10% buffer to cater for possible variations when actual data are collected by the MPFA from the trustees and ORSO employers after enactment of the bill.

- scheme member), and failure to comply with MPFA's requirement will be subject to financial penalty²;
- (d) empower the MPFA to make use of the personal data and information received under (c) for the purpose of the injection exercise (e.g. matching of MPF and ORSO data to identify multiple account-holders and aggregate income where necessary to determine eligibility of each member);
 - (e) empower the MPFA to require the trustees to inject the contributions in the relevant accounts in accordance with its direction, and failure to comply with the MPFA's direction will be subject to financial penalty;
 - (f) stipulate that the trustees are required to give written notice to the persons concerned to confirm that the contributions have been injected into their accounts , and non-compliance will be subject to financial penalty;
 - (g) provide for rectification of wrong injection by the trustees on the direction of MPFA within a specified period (say, six months) after the injection; and
 - (h) stipulate that the new provisions will prevail over those trust deeds which do not allow for contributions from any parties other than the employers and employees as well as any other conflicting provisions in the MPF documents.

9. After enactment of the legislation, the MPFA will have the legal backing to require and collect relevant data pertaining to individual accounts from the trustees and ORSO employers and to conduct data matching and verification for compiling a list of eligible recipients.

Next Steps

10. Subject to Members' views, we will introduce a bill to implement the legislative proposals outlined above as soon as possible in the current

² Any trustees or employers who fail to comply with the requirement imposed by the MPFA in para. 8(c), (e) and (f) are liable to a financial penalty of \$10,000 for the first failure, \$20,000 for the second failure and \$50,000 for the third or subsequent failure.

legislative session. Funding approval from the Legislative Council Finance Committee will be sought after enactment of the bill. We hope to commence injection of funds to relevant accounts within 2008-09.

Financial Services and the Treasury Bureau
April 2008