

立法會
Legislative Council

LC Paper No. CB(1)2478/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/08/2

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2009**

**First meeting on
Tuesday, 19 May 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Hon Starry LEE Wai-king
Hon Tanya CHAN
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon IP Wai-ming, MH

Members absent : Hon Albert HO Chun-yan
Hon LEE Chuek-yan
Hon LI Fung-ying, BBS, JP
Hon WONG Yuk-man

**Public officers
Attending** : Agenda item II

Mr Patrick HO
Deputy Secretary for
Financial Services and the Treasury
(Financial Services) 2

Ms Jenny CHAN
Principal Assistant Secretary for
Financial Services and the Treasury
(Financial Services) 3

Mr Frederick YU
Assistant Secretary for
Financial Services and the Treasury
(Financial Services) (3)2

Mr Allen LAI
Senior Government Counsel
Department of Justice

Attendance by Invitation : Agenda Item II

Mr Darren MCSHANE
Executive Director (Regulation and Policy)
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Chief Manager
(Policy Development and Research)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Ms Rosalind MA
Chief Council Secretary (1)5

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mr Noel SUNG
Senior Council Secretary (1)4

Ms Haley CHEUNG
Legislative Assistant (1)8

I Election of Chairman

Mr CHAN Kam-lam, the member with the highest precedence among those present at the meeting, presided over the election of the Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Tommy CHEUNG nominated Mr CHAN Kam-lam and the nomination was seconded by Mr Andrew LEUNG. Mr CHAN Kam-lam accepted the nomination.

There being no other nomination, Mr CHAN Kam-lam was elected Chairman of the Bills Committee.

II Meeting with the Administration/ Mandatory Provident Fund Schemes Authority

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|----------------------------------|--|
| (LC Paper No. CB(3)526/08-09 | — The Bill |
| FSB CRG4/51C(2007) Pt.4 | — Legislative Council Brief issued by the Financial Services and the Treasury Bureau |
| LC Paper No. LS58/08-09 | — The Legal Service Division Report on the Bill |
| LC Paper No. CB(1)1605/08-09 | — Background Brief on the Mandatory Provident Fund Schemes (Amendment) Bill 2009 |
| LC Paper No. CB(1)1606/08-09(01) | — Marked-up copy of the Bill prepared by the Legal Service Division |
| LC Paper No. CB(1)1606/08-09(02) | — Letter from Assistant Legal Adviser to the Administration dated 13 May 2009) |

Declaration of interests

3. Mr WONG Ting-kwong and Mr Andrew LEUNG declared that they were non-executive directors of the Mandatory Provident Fund Schemes Authority (MPFA).

Discussion

4. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration/MPFA

5. To address members' concern about employees' access to their account information, the Administration/MPFA were requested to examine means to facilitate employees' checking of the account balance and the mandatory contributions made by their employers, including but not limited to the suggestion of developing a "passbook" system similar to that of bank accounts.

6. In relation to members' concern about ways to facilitate/remind scheme members to consolidate their preserved accounts with accrued benefits derived from their former employments, the MPFA was requested to:

- (a) examine and advise whether it could compile from its existing database relevant information on the number of preserved accounts held by individual scheme members; and
- (b) consider means to facilitate/remind scheme members to consolidate their preserved accounts.

(Post-meeting note: The Administration/MPFA's response was issued to members vide LC Paper No. CB(1)1785/08-09(02) on 2 June 2009.)

III Any other business

Invitation for submissions

7. The Bills Committee decided that it would not be necessary to specifically invite views from the public on the Bill. The Bills Committee also noted the written submission from the Law Society of Hong Kong which had been forwarded to the Administration for response.

(Post-meeting note: The Administration/MPFA's response to the submission was issued to members vide LC Paper No. CB(1)1785/08-09(03) on 2 June 2009.)

Date of next meeting

8. Members agreed that the next meeting would be held on 4 June 2009 to follow-up issues raised at this meeting and commence clause-by-clause examination of the Bill.

9. There being no other business, the meeting ended at 10:00 am.

**Proceedings of the
Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2009
First meeting on Tuesday, 19 May 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000145 – 000425	Mr CHAN Kam-lam Mr Tommy CHEUNG Mr Andrew LEUNG Mr WONG Ting-kwong	(a) Election of Chairman (b) Declaration of interests	
000426 – 000930	Chairman Administration	Briefing by the Administration on the proposed amendments under the Bill.	
000931 – 002121	Chairman Mr WONG Kwok-hing Administration MPFA	(a) Mr WONG Kwok-hing's concern about measures to facilitate employees' checking of their Mandatory Provident Fund (MPF) account balance and the mandatory contributions made by their employers. Mr WONG's suggestion that a "passbook" system similar to that of bank accounts should be developed by scheme trustees. (b) The Mandatory Provident Fund Schemes Authority (MPFA)'s advice that, apart from the monthly pay-records from employers and annual benefit statement from trustees, there were other means for members to check the contribution status of their MPF accounts, for example, via the website of the trustees on the Internet, and the central enquiry line jointly administered by the MPFA and the trustees. (c) The Administration's advice that it would ask the MPFA to examine further measures to facilitate scheme members' access to account information, having regard to Mr WONG's views. (d) Mr WONG Ting-kwong's comment that the recent enhancement of the computer system for implementation of the Government's injection of \$6,000 into eligible scheme members' MPF accounts might facilitate MPF trustees to develop account checking system.	The Administration to take follow-up action as required in paragraph 5 of the minutes.

Time Marker	Speaker	Subject(s)	Action Required
002122 – 002952	Chairman Mr IP Wai-ming Administration Chairman	<p>(a) Mr IP Wai-ming's remark that Members belonging to the Hong Kong Federation of Trade Unions were of the view that employees should also be allowed to transfer accrued benefits derived from employer's mandatory contributions to a scheme of employees' own choice so that they could have full control of their MPF investments.</p> <p>(b) The Administration's explanation that in examining the scope of the transfer, the Administration/MPFA had considered that some important issues could not be resolved satisfactorily should the proposal be extended to cover transfers of accrued benefits derived from employer's mandatory contributions. One of the major issues was the difficulties in tracing the whereabouts of the contributions from employers for individual employees, which gave rise to concerns about disruption to the operation of the existing arrangement whereby employers could apply accrued benefits derived from employer's contributions to offset the Severance Payment/Long Service Payment (the SP/LSP offsetting arrangement).</p> <p>(c) As regards Mr IP's further view that the SP/LSP offsetting arrangement should be reviewed, the Administration's advice that the decision of incorporating the SP/LSP offsetting arrangement in the MPF System had been made after extensive consultation and discussion with stakeholders during the scrutiny of the MPF legislation in the 1990s. The Administration advised that it had no plan to change the SP/LSP offsetting arrangement at this stage when there was no common view among the relevant stakeholders.</p> <p>(d) The Chairman's view that Mr IP's concern related to the operation of the existing system which required further discussion outside the context of the Bill.</p>	
002953 – 005017	Chairman Ms Starry LEE Administration MPFA Mr WONG Ting-kwong	<p>(a) Ms Starry LEE's concern about measures to facilitate/remind scheme members holding multiple accounts across different schemes to manage and/or consolidate the accounts.</p> <p>(b) The Administration and MPFA's advice that</p>	

Time Marker	Speaker	Subject(s)	Action Required
	Mr CHEUNG Kwok-che	<p>apart from the regular benefit statements from trustees, a register of personal accounts would be established and maintained by the MPFA upon the implementation of the amendments under the Bill. Scheme members might ascertain the name and contact details of trustees with which they had personal account(s) through enquiry to the MPFA.</p> <p>(c) Concern shared by Ms Starry LEE and Mr CHEUNG Kwok-che about the impact of the proposed amendments to the level of fees and charges of MPF funds.</p> <p>(d) Advice of the MPFA that while trustees might have to bear additional costs to enhance their computer system to cater for the implementation of the portability proposal, they would unlikely transfer the costs to the scheme members through increase of fees and charges. Their advice that the proposal would promote competition in the MPF market and could drive down fees and charges in the long run.</p> <p>(e) Noting that there would be no statutory requirements on scheme members to consolidate their multiple MPF accounts, Mr WONG Ting-kwong's view that the MPFA should step up publicity to encourage consolidation of accounts.</p> <p>(f) Mr CHEUNG Kwok-che's concern that some scheme members might not be aware of the number of MPF accounts they held, in particular for those who frequently changed jobs or residential addresses. His view that in addition to publicity, the MPFA should take initiative to remind scheme members of the multiple accounts they held across schemes.</p> <p>(g) The MPFA's advice that scheme members should decide whether to consolidate the multiple accounts they hold or maintain the status quo. The MPFA would be able to provide information to scheme members on whether they maintained multiple preserved accounts across different MPF schemes upon request. The MPFA would review the situation of multiple accounts holding after implementation of the portability proposal for a</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>certain period and consider appropriate means to remind relevant scheme members of the arrangements to consolidate their multiple accounts.</p>	
005018 – 005149	Chairman MPFA	<p>(a) The Chairman's concern about the provision of information from trustees for the establishment of the register of personal accounts.</p> <p>(b) The MPFA's advice that under the existing MPF System, there were requirements on the provision of MPF account information by schemes trustees to the MPFA on a regular basis, and no compliance issue had been identified so far in this respect.</p>	
005150 – 011004	Chairman Mr IP Wai-ming MPFA Mr WONG Ting-kwong Administration	<p>(a) Mr IP Wai-ming's concern about timely detection by employees of their employers' default in making mandatory contributions.</p> <p>(b) The MPFA's advice that under the MPF System, scheme trustees were required to provide annual benefit statements to their members, and employers were required to provide monthly pay-records to their employees. While the MPFA was not aware of particular compliance issues with these two requirements, it would follow up any such cases upon receipt of complaints.</p> <p>(c) Mr IP's view that the MPFA should take initiative to inform scheme members holding two or more MPF accounts to consider consolidating their accounts.</p> <p>(d) The MPFA's advice that personal particulars of scheme members such as the correspondence addresses were maintained by scheme trustees, and the MPFA did not have such information in hand.</p> <p>(e) Mr WONG Ting-kwong's view that if information on the number of preserved accounts held by individual scheme members could be compiled from the MPFA's database, the MPFA should also consider means to remind scheme members to consolidate their multiple accounts using such information.</p>	<p>The Administration/MPFA to take follow-up action as required in paragraph 6 of the minutes.</p>

Time Marker	Speaker	Subject(s)	Action Required
011005 – 011405	Chairman Ms Starry LEE MPFA Mr WONG Ting-kwong	<p>(a) Ms Starry LEE's view that to facilitate employees' timely detection of any default contributions, the MPFA should examine means to facilitate their checking of account balance and contribution status, such as through the development of a "passbook" system.</p> <p>(b) The MPFA's reiteration that employers were required under the law to provide monthly pay-records to the employees, covering information on the contribution status of their MPF accounts. Under the existing statutory regime, trustees were required to report default contribution cases to the MPFA. The suggestion of a "passbook" system would require detailed consideration given the implications on the database systems of scheme trustees. Nevertheless, the MPFA was currently conducting a review of member disclosure to identify the range and source of information that members should have access to, whether there were content items that were not adequately disclosed and whether the methods of distributing information was adequate.</p> <p>(c) Mr WONG Ting-kwong's view that the MPFA should step up publicity of the requirement on the employers to provide monthly pay-record to employees so that the latter could get timely information of the contribution status.</p>	
011406 – 011858	Chairman MPFA Mr WONG Ting-kwong	<p>(a) The Chairman's view that upon implementation of the portability proposal, the MPFA should maintain adequate information on individual scheme members in its central database. The MPFA should also enhance supervision of MPF schemes and step up public education for protection of the interests of scheme members.</p> <p>(b) The MPFA's advice that there were already existing statutory requirements on the operation of registered schemes to protect the interests of scheme members. Upon the implementation of the portability proposal, trustees would have to comply with the requirements in effecting elections of transfers by scheme members.</p> <p>(c) Mr WONG Ting-kwong's view that further legislative amendments might be required to</p>	

Time Marker	Speaker	Subject(s)	Action Required
		empower the MPFA's maintenance of detailed information on scheme members.	
011859 – 012439	Chairman Mr WONG Ting-kwong Mr IP Wai-ming MPFA	<p>(a) Mr WONG Ting-kwong's advice that the MPFA would investigate and take appropriate enforcement actions against default contribution cases upon receipt of complaints by employees and/or reports by trustees.</p> <p>(b) Mr IP Wai-ming's concern about the timely detection of and enforcement actions against cases of default contributions by employers. Mr IP's enquiry about the enforcement actions against cases of default contributions.</p> <p>(c) The MPFA's advice that upon receipt of the default reports from trustees, the MPFA would issue payment notices to the employers concerned imposing a surcharge in accordance with the provision under the MPF Schemes Ordinance (Cap. 485). If the employers concerned still failed to make the contributions as required, the MPFA would investigate the cases and ascertain the facts. The MPFA endeavoured to deal with the default contribution cases as soon as possible.</p>	
012440 – 013039	Chairman Clerk ALA4	<p>(a) Invitation for submissions</p> <p>(b) Date of next meeting</p>	