

ITEM FOR FINANCE COMMITTEE

**HEAD 148 – GOVERNMENT SECRETARIAT:
FINANCIAL SERVICES AND THE TREASURY BUREAU
(FINANCIAL SERVICES BRANCH)**

Subhead 700 General non-recurrent

New Item “Payment of special contributions into Mandatory Provident Fund accounts of eligible persons”

Members are invited to approve a new commitment of \$9 billion for making payment of special contributions into the Mandatory Provident Fund accounts of eligible members of Mandatory Provident Fund Schemes and Mandatory Provident Fund-exempted Occupational Retirement Schemes.

PROBLEM

The lower-income working people may not have any extra money to save up for their retirement life after making statutory Mandatory Provident Fund (MPF) contributions.

PROPOSAL

2. We propose to make a one-off injection of \$6,000 into the MPF accounts of eligible members of MPF Schemes and MPF-exempted Occupational Retirement Schemes¹ (ORSO Schemes).

/JUSTIFICATION

¹ Occupational Retirement Schemes are voluntary retirement schemes operated by employers. Members of Occupational Retirement Schemes operating before commencement of the MPF System in 2000 and granted exemption under the MPF legislation are not required to participate in MPF schemes.

JUSTIFICATION

Objective of the injection exercise

3. Having regard to the problem set out in the beginning of this paper, in order to demonstrate the Government's commitment to enhancing retirement protection for workers and relieving the pressure on social welfare expenditure in the long run, the Financial Secretary (FS) announced in the 2008-09 Budget Speech and subsequently during the Budget Concluding Speech in April 2008 that a one-off injection of \$6,000 (the special contribution) would be made to the MPF accounts of eligible members of the MPF Schemes and ORSO Schemes whose aggregate monthly income does not exceed \$10,000. The Mandatory Provident Fund Schemes Ordinance (the Ordinance) was amended in July 2008 to designate the special contributions as mandatory contributions and to provide the legal framework for the Mandatory Provident Fund Schemes Authority (MPFA) to implement the proposal. Under the amended Ordinance, the special contributions would be subject to the same preservation requirements as mandatory contributions and could only be withdrawn by scheme members upon reaching the retirement age of 65 or otherwise permitted in exceptional circumstances under the Ordinance.

Eligibility criteria

4. The eligibility criteria as well as the methodology to be adopted by the MPFA in assessing whether an individual would be eligible for the injection were deliberated by the Legislative Council Panel on Financial Affairs (the FA Panel) in May 2008 and by the Bills Committee set up to scrutinise the amendments to the Ordinance in June 2008 (the Bills Committee). In gist, the following categories of persons would be eligible for the injection if their aggregate monthly income does not exceed \$10,000 –

- (a) holders of an MPF contribution account² on 29 February 2008;
- (b) members of ORSO defined contribution schemes on 29 February 2008;
- (c) members of ORSO defined benefit schemes on 29 February 2008; and

/(d)

² Includes MPF accounts that hold mandatory contributions of the employees/self-employed persons, as well as MPF accounts that hold voluntary contributions of the employees/self-employed persons concerned.

- (d) 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 or was an ORSO Scheme member between 1 March 2007 and 28 February 2008.

Encl. 1

The assessment methodology adopted by the MPFA in determining the eligibility of an individual, extracted from Appendix III to the Report of the Bills Committee dated 3 July 2008 (LC Paper No. CB(1)2091/07-08), is at Enclosure 1.

Implementation arrangements

Compilation of an eligibility list

5. Following announcement of the injection exercise in the 2008-09 Budget Speech, the Government has been working closely with the MPFA to formulate the detailed implementation arrangements and set in train the necessary preparatory work. In accordance with the amended Ordinance, the MPFA has collected the required data of more than seven million MPF/ORSO accounts from the trustees and employers concerned. After consolidation and matching of the account data collected, the MPFA has identified a total of about 1.404 million scheme members who are eligible to receive the special contributions based on the eligibility criteria in paragraph 4 above.

Making special contributions into relevant accounts

6. Subject to the funding approval by this Committee, the Government would arrange for the funds to be transferred to the MPFA for implementation of the injection exercise. Shortly after receiving the funds, the MPFA would disburse the money to trustees and instruct the trustees to immediately commence the procedures for injecting the special contributions into the relevant MPF accounts. The MPFA would also instruct the trustees to set up new MPF preserved accounts for eligible members who do not have MPF accounts at present for the purpose of receiving the special contributions. The trustees concerned would issue a written notification to each eligible person within ten working days after the injection has been made to his MPF account. As we have informed the Bills Committee during scrutiny of the legislative amendments to the Ordinance, where at the time of the injection the eligible persons have withdrawn their accrued benefits and closed their MPF/ORSO accounts on retirement or in specified circumstances³, payment of the special contributions would be made by

/issuing

³ They include early retirement, death, permanent departure from Hong Kong and total incapacity.

issuing cheques to them at their last known address registered with the relevant trustees⁴ or by transferring the special contributions into bank accounts previously nominated by the members concerned. Details of the methodology and timeframe for payment of the special contributions are at Enclosure 2.

Encl. 2

7. The MPFA expects that the first batch of injection covering about 97% of the 1.404 million eligible persons will be completed before end March 2009, and the payment to be made to the rest before end April 2009 (the latter group being mainly those eligible ORSO members as the trustees need to make arrangements to set up new MPF preserved accounts for them).

Review/appeals handling mechanism

8. Eligible persons who have not received the written notification of injection from trustees can make enquiries with the MPFA starting from 1 April 2009. They can also seek a review of their eligibility by making a request to the MPFA executive during the six-month period between 1 April 2009 and 30 September 2009 (both dates inclusive). Persons aggrieved with the review decision by the MPFA executive may lodge an appeal with an appeal panel which is chaired by the non-official chairman of the MPF Schemes Advisory Committee and comprises non-executive directors of the MPFA as members. Anyone who is found to be eligible subsequent to the review or appeal process will receive an injection of the special contributions to his MPF account. Details of the above review/appeals handling mechanism, extracted from an information note issued to the FA Panel in January 2009, are at Enclosure 3.

Encl. 3

9. The MPFA aims to complete the processing of all review and appeal cases, as well as the payment of special contributions into accounts with eligibility confirmed in the review or appeal process, in the first quarter of 2010.

Publicity

10. The MPFA plans to launch an extensive publicity programme starting from end February 2009 to widely publicise various aspects of the injection exercise, including the eligibility criteria, the payment mechanism, the implementation timetable and the arrangement for lodging requests for review and

/appeals

⁴ In the case the eligible person has deceased, the cheque will be issued to his personal representative as defined under the Ordinance, which means (i) a personal representative within the meaning of section 2 of the Probate and Administration Ordinance; or (ii) where the Official Administrator gets in and administers an estate in a summary manner under section 15 of that Ordinance, the Official Administrator.

appeals. The publicity programme will be conducted through Announcements in the Public Interest, advertisements, newspaper articles and other appropriate means. A pamphlet of frequently asked questions will be prepared for distribution and uploaded on MPFA's website for reference by the general public.

Monitoring and control

11. The Government will continue to work closely with the MPFA to ensure smooth and timely implementation of the injection exercise. A working group chaired by the Financial Services Branch with participation from the MPFA has been set up to oversee the implementation of the exercise and to resolve any issues that may emerge during the course of implementation.

12. The MPFA will keep in separate bank account(s) all the money received from the Government for the purpose of making payment of special contributions. The MPFA is also required to keep proper accounts and records of the money received from Government and arrange for the accounts to be audited by an independent auditor after completion of the injection exercise. Furthermore, the MPFA is required to report to the Government on the payment of special contributions and submit a copy of the audited accounts after completion of the injection exercise. In terms of monitoring the implementation of the injection exercise through trustees, the MPFA would require the trustees to maintain proper accounts and records of special contributions paid/withdrawn and to submit regular reports on the injection exercise to the MPFA. The MPFA would also require the trustees to return any unused funds as soon as practicable after the completion of the injection exercise.

FINANCIAL IMPLICATIONS

13. On the basis of MPFA's assessment that about 1.404 million people would be eligible to receive the special contributions, the total non-recurrent expenditure involved will be \$9 billion, including a contingency buffer of some 6%. Since this is the first time that the MPFA has required the trustees and employers concerned to provide relevant employees' data in such a massive scale for the purpose of the injection exercise, and the accuracy of the eligibility list compiled by the MPFA is dependent on the accuracy and updatedness of the data provided to it, we consider it prudent to include the above contingency buffer in the proposed funding requirement. The estimated cash flow would be as follows –

/Financial

Financial year	Estimated cash flow (\$ billion)
2008-09	8.592
2009-10	0.408
Total	9.000

14. The proposed \$9 billion will be used entirely for the purpose of making the payment of special contributions to relevant accounts. We have earmarked the necessary provision in the 2008-09 Estimates and will include sufficient provision in the 2009-10 Draft Estimates to meet the above estimated cash flow requirements. The MPFA would be responsible for the administrative expenses it has incurred for the exercise. Upon completion of the injection exercise, the MPFA would be required to return any unused funds to the Government on a date in the first quarter of 2010 to be agreed between the Government and the MPFA.

PUBLIC CONSULTATION

15. We consulted the FA Panel on the proposal on 5 May 2008. Members were generally supportive of the proposal. Details of the proposal had also been deliberated thoroughly by the Bills Committee in June 2008. In January 2009, we issued to the FA Panel an information note setting out, inter alia, the arrangements to be made by the MPFA for handling requests for review of eligibility and further appeals.

16. Following announcement of the injection exercise in the 2008-09 Budget Speech, there were suggestions from certain sectors of the community to widen the eligibility criteria. Taking heed of these views, FS announced in the Budget Concluding Speech in April 2008 that the eligibility criteria would be expanded to cover all the categories of persons described in paragraph 4 above. As for the other suggestions which have not been taken on board after careful consideration, we have explained that the injection exercise is to make use of the established MPF System to enhance retirement protection for the lower-income working people, that the 2008-09 Budget Speech already contained a number of other relief measures that would help alleviate the economic hardship of people with different needs in society, and that in order to meet the objective of enhancing retirement protection, the special contributions should be treated as mandatory contributions to enable their accrual in MPF accounts until retirement as provided for in the amended Ordinance.

BACKGROUND

17. The MPF System is a privately-managed retirement protection system which commenced operation in December 2000. To demonstrate the Government's commitment to enhancing retirement protection and relieving the pressure on social welfare expenditure in the long run, FS proposed in the 2008-09 Budget Speech to make a one-off injection of \$6,000 into the relevant MPF accounts of eligible persons.

Financial Services and the Treasury Bureau
February 2009

**Methodology adopted by Mandatory Provident Fund Schemes Authority
for assessing eligibility under the injection exercise**

The Mandatory Provident Fund Schemes Authority (MPFA) will assess whether a person mentioned in paragraph 4 of the main paper is eligible for the injection based on the following criteria –

- (a) 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;
- (b) “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;
- (c) if a person is not employed for the full period in those three consecutive months, the MPFA will assess whether that person would be eligible for the injection based on the income information in those months with income records^{Note};
- (d) 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
- (e) 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.

Note This can be illustrated by the following example: an employee was engaged in a former employment in and before December 2007, earning a monthly income of \$9,000. He started a new employment in February 2008 with a monthly income of \$11,000, but he was not employed in January 2008. He 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. He is eligible for the injection.

2. The MPFA will adopt the following criteria in handling special cases below –

- (a) 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.

- (b) 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.

- (c) 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.

Methodology and timeframe for payment of special contributions

The Mandatory Provident Fund Schemes Authority (MPFA) will, through MPF trustees where appropriate, make payment of the special contributions into MPF accounts in the following manner:

- (a) for an eligible person who has MPF preserved account(s) (with or without contribution account(s)), the special contributions will be paid into the preserved account that was opened by the member most recently. The cut-off date for ascertaining the most recently opened account will be set at 30 November 2008;
- (b) for an eligible person who only has MPF contribution account(s) but not any MPF preserved account(s), the special contributions will be paid into the contribution account with the highest balance as at the cut-off date for ascertaining one's eligibility for receiving the special contributions, i.e. 29 February 2008;
- (c) for an eligible MPF scheme member who has already withdrawn his accrued benefits from his MPF account(s)^{Note} after 29 February 2008, the MPFA would instruct the trustee concerned to make payment of the special contributions to him or his personal representative by sending a cheque to his last known address registered with the trustee or by transferring the special contributions into bank accounts previously nominated by the members concerned;
- (d) for an eligible member of an MPF-exempted Occupational Retirement Scheme (ORSO Scheme) who has withdrawn his accrued benefits after 29 February 2008, the MPFA would make payment of the special contributions to him or his personal representative by sending a cheque to his last known address registered with the trustee; and
- (e) for other eligible persons who do not have any MPF account(s) as at the cut-off dates referred to in paragraphs (a) and (b) above (such as eligible members of ORSO Schemes who have no MPF account(s)),

^{Note} The circumstances for withdrawal of accrued benefits include retirement, early retirement, death, permanent departure from Hong Kong and total incapacity.

the MPFA will instruct the relevant MPF trustees to open MPF preserved accounts for them and the MPF trustees will invite the persons concerned to indicate their investment choice. The special contributions will be paid into the new MPF preserved accounts according to the investment choice, if any, made by the persons.

2. The trustees are required by law to open MPF preserved accounts for eligible recipients to receive the special contributions as instructed by the MPFA, make payment of the special contributions into the relevant accounts, and notify the recipients of the injection within a specified timeframe as follows –

- (a) complete the setting up of MPF preserved accounts by the fifth working day after receiving the funds from the MPFA;
- (b) pay the special contributions into the specified MPF accounts of eligible recipients within ten working days after receiving the funds and the payment instructions, whichever is the later, from the MPFA;
- (c) notify the eligible recipients in writing within ten working days after the actual payment of the special contributions into the specified accounts; and
- (d) for an eligible member who has already withdrawn the accrued benefits and closed his MPF account at the time of injection, make payment of the special contributions to him by sending a cheque to his last known address registered with the trustee or by transferring the special contributions into bank accounts previously nominated by the person concerned within 15 working days after receiving the funds and the payment instructions, whichever is the later, from the MPFA.

Arrangements for handling requests for review of eligibility

The Mandatory Provident Fund Schemes Authority (MPFA) would verify one's eligibility status strictly in accordance with the pre-set eligibility criteria on the basis of all available facts and evidence. It would designate a team of officers to consider requests for review. The MPFA officers would check the accuracy of available information, examine additional information (if any) provided by the persons concerned such as their employment records and income proof, and where necessary, seek further information from the trustees and employers concerned. Depending on the number of requests, the complexities of individual cases and the time taken to collect evidence, the MPFA expects that the individuals would receive written notification setting out the decision on their requests for review within three months.

2. Any appeal against a decision made by the MPFA officers on a request for review would be handled by an appeal panel. The appeal panel comprises non-executive directors of the MPFA as members, and will be chaired by the Chairman of the MPF Schemes Advisory Committee^{Note}. If an individual is not satisfied with the decision on his request for review, he may, within three weeks after written notification of MPFA officers' decision, lodge an appeal with the appeal panel. The appeal panel would review the decision having regard to all of the information provided by the appellant and the findings of the MPFA officers' investigation. The individual would be notified of the outcome of the appeal in writing. The decision of the appeal panel shall be final.

3. As for cases where, after an injection has been made, the MPFA officers find that a recipient is not eligible and should not have received the special contribution, the MPFA officers would notify the person concerned in writing. The arrangements mentioned in paragraphs 1 and 2 above would apply in the handling of requests for review and appeals in such cases. The persons concerned would be given an opportunity to make a request for review of the officers' decision to withdraw the special contribution within three weeks after written notification of that decision. And if after the due process of review, an individual is still dissatisfied with the review result, he may lodge an appeal with the appeal panel. In the latter cases, the MPFA would direct the trustee to withdraw the special contributions only after the appeal panel has made a final decision and confirmed the decision to make the withdrawal.

Note The incumbent Chairman is Mr Lee Kai-ming. The MPF Schemes Advisory Committee is established under the MPF Schemes Ordinance to make recommendations to the MPFA as to the operation of the MPF Schemes Ordinance and to advise the MPFA with respect to any matter referred to the Committee by the MPFA.

4. Under the above two-stage process for handling requests for review and subsequent appeals, the MPFA aims to be able to complete the handling of all appeal cases in the first quarter of 2010.
