Motion on
"Comprehensively Reviewing the Mandatory Provident Fund Scheme" moved by Hon WONG Kwok-kin at the Legislative Council meeting on 1 December 2010

Progress Report

Purpose

At the Legislative Council ("LegCo") meeting on 1 December 2010, the motion on "Comprehensively Reviewing the Mandatory Provident Fund Scheme" moved by Hon WONG Kwok-kin, as amended by Hon CHAN Kin-por, Hon Ronny TONG Ka-wah and Hon Paul CHAN Mo-po, was carried. The wording of the motion is at **Annex**.

2. This note briefs Members on the relevant work progress.

Universal Retirement Protection

3. The three-pillar model for retirement protection being implemented in Hong Kong, viz., the non-contributory social security system, the Mandatory Provident Fund ("MPF") System and voluntary private savings, was adopted in the 1990's after lengthy discussion by different sectors of the community. The Government has over the years closely monitored the operation of the three-pillar model taking into account socio-economic changes, made adjustments as necessary and studied sustainable measures.

4. The existing three-pillar model is the foundation of retirement protection in Hong Kong. Any fundamental changes must be considered thoroughly. The Central Policy Unit ("CPU") is now refining its study on the sustainability of the existing model having regard to the latest developments, and will listen to the views of various sectors in the process. The Government will carefully consider the findings of CPU's study and other relevant factors in deciding on any future course of action.

MPF System

5. The MPF System, as one of the pillars under the three-pillar

model, aims to assist the working population in accumulating retirement savings through contributions by both employers and employees so as to enhance retirement protection for the working population in Hong Kong. Before the implementation of the MPF System, only about one-third of the Hong Kong workforce had some form of retirement protection. As at end 2010, MPF System has accumulated around $365.4 billion assets for more than 2.5 million employees and self-employed persons. Together with other retirement protection schemes, around 90% of the working population is now covered by retirement protection schemes. The average annualized internal rate of return of MPF System (net of fees and charges) since 2000 is 5.5%, which is higher than the annualized composite Consumer Price Index change of 0.7%. Separately, data show that voluntary contribution as a percentage of MPF contribution has been increasing from 9.2% in 2002 to 15.9% in Q4 2010. This demonstrates that the working population has been making retirement savings more proactively through MPF Schemes.

Review of the Operation of the MPF System

6. Since the implementation of the MPF System in December 2000, the Mandatory Provident Fund Schemes Authority ("the Authority") has maintained close liaison with the Administration to review the arrangements under the MPF System and improve its operation. Eight bills to amend the Mandatory Provident Fund Schemes Ordinance ("MPFSO") were passed to improve various aspects of the MPF System, including increasing the level of penalties against default contributions, simplifying and improving the operation of the MPF System, protecting the accrued benefits derived from mandatory contributions in MPF Schemes in case of bankruptcy of scheme members, as well as enabling employees to transfer accrued benefits derived from their own contributions during current employment ("Employee Choice Arrangement").

7. It has always been the intention of the Government and the Authority to review and make continuous improvement to the MPF System as necessary. The latest focus is on the level of minimum and maximum relevant income for mandatory contribution (see para. 11 below); adequacy of the contents of the information disclosed to scheme members and the disclosure channels; the mode of withdrawal of the MPF accrued benefits upon attaining the age of 65; and the circumstances under which withdrawal before the age of 65 may be permitted. For the Occupational Retirement Schemes ("ORSO"), the Authority will continue to request employers to strengthen disclosure and provision of relevant

information to employees. This will better equip employees to make an informed choice over joining MPF Schemes or ORSO Schemes.

Enforcement against Default Contributions

8. Both the Government and the Authority attach great importance to combat default contributions and the Authority has continued to enforce the MPFSO proactively by investigating complaints, inspecting employment premises, making claims at law courts on behalf of employees to recover outstanding default contributions, and prosecuting non-compliant employers. In first four months of 2011, 808 summonses were applied, including 699 cases against default contributions. The Authority also visited 809 employment establishments and made 167 submissions to the Small Claims Tribunal and the District Court (involving a total of 1214 employees) to claim default contributions.

9. On the Public Relation front, the Authority has launched a series of publicity activities to enhance the transparency of its enforcement work and to correct some misunderstandings about MPF regulations, so as to enhance compliance and deter breaches. A leaflet on common fallacies about MPF regulations was distributed to members of the public in December 2010. The "Enforcement Webpage" on the Authority’s website was revamped with enhanced contents about some landmark cases handled. It is worth noting that the Authority is making good progress in the implementation of a blacklist mechanism. Under the mechanism, the names of default employers will be posted on the Authority’s website so as to increase the deterrent effect against non-compliance. The initiative is expected to take place in H1 2011. In addition, publicity initiatives were engaged in January 2011 to promote the MPF Contribution Enquiry Line for checking employees’ MPF account status. The second issue of the MPFA Newsletter with a focus on enforcement work was issued in March 2011.

10. The Administration and the Authority would continue to review both the legislative framework and the enforcement strategy so as to effectively tackle default contributions.

Minimum and Maximum Relevant Income Levels for MPF Contributions

11. The current minimum and maximum relevant income levels are $5,000 and $20,000 respectively. In accordance with the law, the Authority conducted a review of the minimum and maximum relevant income levels in 2010. The Administration consulted the LegCo Panel

on Financial Affairs on the Authority's review results at its meeting on 21 February 2011 and further gauged the views of deputations and Members at a special meeting of the Panel on 20 April 2011. At the special meeting, the consensus view on the minimum relevant income level is that it should be increased to $6,500 whilst many views accept the maximum relevant income level should be increased to $25,000. The Administration is finalizing the proposals in light of the views received. We plan to initiate the legislative amendment in Q2 this year with a view to amending the minimum and maximum relevant income levels as soon as possible.

Increasing Employees' Choice and Lowering Fees and Charges

12. Consistent with the model promoted by the World Bank, MPF Schemes are privately-operated. Against this, the Government and the Authority have been taking steps to increase employees' choice, assist them to make informed choices through, for example, enhanced disclosure and provision of information. We have noticed decrease in fund charges in recent years driven by the market force. In fact, the Authority recently approved registration of two new master trust schemes, each offering nine constituent funds, with management fees as low as 0.79-0.99% per annum. With the continuous efforts to drive down fees, the Fund Expense Ratio drops further from 1.89% as announced at end October 2010 to 1.81% as announced in April 2011.

13. In this connection, the Government and the Authority are according top priority to legislating for the better regulation of MPF intermediaries to ensure that the Employee Choice Arrangement will start on a strong footing. The Administration consulted the LegCo Panel on Financial Affairs and stakeholders on the broad legislative framework in April 2011. Other related measures include a thematic campaign in Q4 2010 to encourage employers to increase MPF Scheme choices for their employees. A letter containing information on factors to be considered when choosing an MPF Scheme as well as a list of approved trustees and schemes was sent to over 200,000 employers. Contribution articles carrying similar messages were also published in the newsletters of chambers of commerce in Q1 2011. Moreover, the Authority released the second issue of the Summary of Fee Comparative Platform on MPF Funds in April 2011 to provide simplified fee information on MPF funds to scheme members. The Government and the Authority will continue to promote market competition and explore ways to streamline the operation of the MPF System to create room for fees reduction.

Offsetting Arrangement

14. The long-established offsetting arrangement was extended to cover MPF Schemes after extensive consultations and balancing all relevant considerations. This arrangement follows the established practices under the《Employment Ordinance》and was agreed upon when the legislation for introducing the MPF System was approved by LegCo. Since the offsetting arrangement involves considerations pertaining to the overall employer-employee relationship, any change would require consensus from both employers and employees.

Way Forward

15. The Administration and the Authority will continue to monitor and review the operation of the MPF System in light of the motion passed, and explore initiatives to further enhance the efficiency and effectiveness of the MPF System as well as its enforcement.

Financial Services and the Treasury Bureau
May 2011

Annex

(Translation)

Motion on
"Comprehensively reviewing the Mandatory Provident Fund Scheme"
moved by Hon WONG Kwok-kin
at the Legislative Council meeting
of Wednesday, 1 December 2010

Motion as amended by Hon CHAN Kin-por, Hon Ronny TONG Ka-wah and Hon Paul CHAN Mo-po

That, enormous changes will occur to the population structure of Hong Kong in the future, and the ratio of persons who are aged 65 and above to the population will substantially increase to 26% by 2036; this not only indicates the gravity of population ageing in Hong Kong in the future, but also foretells the public's urgent demand for comprehensive retirement protection; yet, there is at present no retirement protection system in Hong Kong that benefit all people, and after nearly 10 years since its implementation, the Mandatory Provident Fund ('MPF') Scheme is still unable to achieve the objective of protecting people's retirement life; in this connection, this Council urges the authorities to comprehensively review the MPF Scheme and further improve the relevant mechanisms, so as to protect the retirement life of all people; the relevant review should include:

(a) to implement universal retirement protection, with tripartite contributions from the Government, employers and employees, so as to extend the coverage of protection to all Hong Kong people;

(b) to abolish the mechanism whereby employers' contributions under the MPF Scheme are used to offset severance payments and long service payments, and retain Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

(c) to implement a system of 'one lifelong account', establish portability of MPF accounts, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to peruse information on contributions, returns, etc. at any time;

(d) to lower MPF management fees and administration fees by, for example, streamlining the management and administrative procedures of MPF schemes and reducing the operating costs of MPF on the premise of not affecting MPF scheme members' interests, so as to create room for lowering administration fees, and at the same time enact legislation to require trustees to set out the actual amounts of management fees in the annual reports of the years concerned, so as to protect the actual amounts of MPFs received by employees upon retirement from not being drastically eroded;

(e) to implement totally unrestricted choices for employees under the MPF Scheme, allowing employees to choose trustees for both employers' and employees' MPF contributions, and at the same time, through publicity and education, enable employees to understand that they may transfer their MPF contributions according to the levels of risks they can bear;

(f) to strengthen the regulation of MPF investment products and regularly review the sales practices adopted by intermediaries;

(g) to review the appropriateness of the existing minimum and maximum levels of income, including that the minimum level of income should be higher than the minimum wage, as well as the percentages of contributions, so as to ensure that the amounts of MPFs are adequate to meet post-retirement expenditure;

(h) to step up law enforcement to combat the situation of default in contributions, including sentencing employers who default on contributions to immediate imprisonment, and considering blacklisting the companies concerned in the tendering exercises for government services as a form of penalty, etc.; and

(i) to reform the Occupational Retirement Schemes ('ORSO') system, requiring employers adopting ORSO schemes to provide their employees with accrued benefits not less than those under the MPF Scheme;

(j) to conduct comprehensive public consultation on the effectiveness and various aspects of the MPF Scheme, given that it has already been implemented for 10 years; and

(k) when implementing universal retirement protection, to conduct public consultation on the specific proposal;

(l) to increase the ceiling of employers' monthly contributions to employees' MPFs to HK$2,500 a month per person, so that employers can make more active commitment to employees' retirement life; and

(m) to correspondingly increase the maximum tax deduction for employees' mandatory contributions to MPF schemes to HK$30,000 each tax year, so as to strengthen employees' protection.