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First Meeting of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) (No.2) Bill 2011

**《2011年強制性公積金計劃(修訂)(第2號)條例草案》
委員會首次會議**

31 January 2012

二零一二年一月三十一日

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Policy Objective

政策目標

- I. Better protection of scheme members' interest
I. 加強保障計劃成員利益

- II. Facilitate implementation of Employee Choice Arrangement ("ECA")
II. 有助落實僱員自選安排

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Scope of the Amendment Bill 修訂條例草案的範圍

- I. Regulation of Mandatory Provident Fund (“MPF”) sales and marketing activities
I. 規管強制性公積金(強積金) 銷售及推銷活動
- II. Provide for the establishment of an electronic transfer system (“E-platform”) for effective transfer of accrued benefits among MPF trustees
II. 為設立電子轉移系統(電子平台)提供法律基礎，以便累算權益能更有效地在受託人之間轉移
- III. Enhance deterrent against default contributions by employers
III. 加強阻嚇僱主拖欠強積金供款

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I. Enhance regulation of MPF sales and marketing (1) I. 加強規管強積金銷售及推銷(1)

• Institution-based regulatory approach 機構為本的規管模式

- Mandatory Provident Fund Schemes Authority (“MPFA”) to be the registration authority, make conduct rules and set codes and guidelines, and exercise disciplinary powers
強制性公積金計劃管理局(積金局)會作為註冊機構，負責制定操守規則、訂定守則及指引，和行使紀律處分權力
- Hong Kong Monetary Authority (“HKMA”), Insurance Authority (“IA”) and Securities and Futures Commission (“SFC”) with distinctive inspection and investigation powers as frontline regulators (“FRs”)
香港金融管理局(金管局)、保險業監督(保監) 和證券及期貨事務監察委員會(證監會)，作為前線規管機構，有特定的監管和調查權力
- A full fledged inspection and disciplinary regime for registered persons: Principal Intermediary (“PI”) and Subsidiary Intermediary (“SI”)
設立全面的調查和紀律懲處架構，規管受規管人士(主事中介人和附屬中介人)
- Introduce legal prohibition (criminal sanction) against regulated activities by unregistered persons
引入法定條款(刑事罰則)，禁止非註冊人士從事受規管活動

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I. Enhance regulation of MPF sales and marketing (2)

I. 加強規管強積金銷售及推銷(2)

- **Institution-based regulatory approach (cont')**

- **機構為本的規管模式(續)**

- Key considerations –

- 主要考慮 –

- Modelled on existing administrative arrangements since 2000

- 參考現行、自2000年已實施的行政安排

- Industry practitioners' perspective – minimize compliance costs and need for adjustment

- 從業員角度 – 減少因應法定架構需要作出的合規成本及調整

- Scheme members' perspective – early implementation of ECA

- 計劃成員的角度 – 盡早落實僱員選安排

- MPF market profile – 485 corporate intermediaries and 30,511 individual intermediaries. Among individual intermediaries, 72% have their principal line of business in insurance sector, 27% in banking sector and 1% in securities sector

- 強積金市場的狀況 – 485名公司中介人和30,511名個人中介人。在個人中介人中，約72%所從事的主要業務為保險業，27%為銀行業，餘下1%則為證券業

- Regulatory perspective – efficient use of regulatory resources

- 規管角度 – 有效使用規管資源

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I. Enhance regulation of MPF sales and marketing (3)

I. 加強規管強積金銷售及推銷(3)

- **“Regulated activity”**

- **“受規管活動”**

- Defined as invites or induces, or attempts to invite or induce, another person to make a decision or gives regulated advice on “specific matters”

- 定義為邀請或誘使，或企圖邀請或誘使另一人作出就「特定事宜」作決定或提供意見

- “Specific matters” refer to decisions on management of MPF benefits, include decisions on participation in MPF schemes (e.g. whether, or when, to join a particular scheme), making of voluntary contributions, transfers and claiming of benefits

- 「特定事宜」指關於管理強積金權益的決定，包括參與強積金計劃的決定(例如是否或何時參與特定計劃)，作出自願性供款，轉移或提取權益

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I. Enhance regulation of MPF sales and marketing (4)

I. 加強規管強積金銷售及推銷(4)

- **Supervision and investigation**

- **監管和調查**

- FRs - on-going supervision and investigation of registered MPF intermediaries who are their regulatees

前線規管機構 - 負責日常監管和調查屬其本業規管的強積金中介人

- PIs and SIs to be supervised by the same FR

主事中介人和附屬中介人由同一前線規管機構監管

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I. Enhance regulation of MPF sales and marketing (5)

I. 加強規管強積金銷售及推銷(5)

- **Disciplinary and appeal arrangements**

- **紀律懲處和上訴安排**

- FRs - provide information to MPFA on their investigation into misconduct

前線規管機構 - 向積金局提供他們調查違規個案所得的資料

- MPFA - decides disciplinary sanctions (if any) taking into account the information from FRs and representation by the regulated person concerned

積金局 - 考慮前線規管機構提供的資料及有關受規管人士的陳述，以決定紀律懲處（如有的話）

- Disciplinary sanctions include public and private reprimand, civil fines, suspension and revocation of registration, disqualified from re-registration for specified period

紀律懲處措施包括：公開或非公開譴責、民事罰款、暫時撤銷註冊及撤銷註冊、禁止在一段時間內重新註冊

- MPFA may by agreement with the regulated person concerned, take such further action in addition to or in place of a disciplinary order

積金局可以在與有關受規管人士達成協議後，採取進一步行動，補充或取代制裁命令

- Mandatory Provident Fund Schemes Appeal Board – deals with all appeals

強制性公積金計劃上訴委員會 - 負責處理所有上訴

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I. Enhance regulation of MPF sales and marketing (6)

I. 加強規管強積金銷售及推銷(6)

- **Transitional arrangements**

- **過渡安排**

- **Transitional period - 2 years after the statutory regime commences**
法定架構實施後首兩年將為過渡期
- **All pre-existing registered MPF intermediaries may continue to carry on regulated activities during the transitional period**
所有在過渡期開始前已註冊的強積金中介人，可在過渡期間繼續進行受規管活動
- **All MPF intermediaries, pre-existing or new, will be subject to the same conduct requirements and sanctions during the transitional period**
所有強積金中介人，不論是現時已註冊還是在新架構下註冊，在過渡期間均需受相同的操守規定和紀律懲處措施規範

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I. Enhance regulation of MPF sales and marketing (7)

I. 加強規管強積金銷售及推銷(7)

- **Measures to ensure regulatory consistency and level playing field include -**
確保規管一致及公平競爭環境的措施包括 -
 - **MPFA will be the sole authority for registration, setting regulatory requirements and disciplinary sanctions, and the central point for receiving complaints**
積金局將作為唯一的機構負責註冊，設定規管要求，紀律懲處和接收投訴
 - **Clear delineation of powers of MPFA and FRs in law, supplemented by MoU**
由法例清晰訂明積金局和前線規管機構的權力，並以諒解備忘錄作補充
 - **Single and independent appeal board**
單一和獨立的上訴委員會
 - **Regular liaison mechanism among MPFA and FRs to enhance communication**
由積金局與前線規管機構設立定期的聯絡機制，加強溝通
 - **Independent Process Review Panel to review enforcement procedures and ensure consistent internal process by MPFA and FRs**
獨立的程序覆檢委員會，檢討執法程序，確保積金局和前線規管機構的內部程序一致

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II. Establishment of E-platform

II. 設立電子平台

- Detailed proposals

- 詳細建議

- Empower MPFA to establish an E-platform and mandate its use by trustees for transfer of accrued benefits
- ↳ 賦權積金局設立電子平台，並規定受託人轉移累算權益時，須使用該平台
 - promote accuracy and security and reduce processing time for transfers of accrued benefits among MPF trustees
 - 加強累算權益轉移的準確性及安全性，並縮短處理時間
- Empower MPFA to charge a fee for using E-platform
- ↳ 賦權積金局就使用電子平台徵費

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III. Enhance deterrent against default contributions

III. 加強阻嚇僱主拖欠強積金供款

- Detailed proposals

- 詳細建議

- Create a new offence for employers' failure to comply with court order for payment of arrears of mandatory contributions and surcharges
- ↳ 僱主未有按照法庭判令，繳付拖欠供款及附加費訂立罪行
- Provide for daily penalty if employers' offence for failing to make mandatory contribution for employees continues
- ↳ 僱主沒有為僱員作出強制性供款，訂立每日罰款
- Have consulted MPF Advisory Committee and Labour Advisory Board
- ↳ 已諮詢強積金諮詢委員會和勞工顧問委員會

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Proposed Implementation Date 建議實施時間

- If the Amendment Bill is passed within the current legislative session, ECA can be implemented on 1 November 2012

如修訂條例草案在本立法年度內獲得通過，僱員自選安排可於2012年11月1日落實

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Thank You

謝謝

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