

香港特別行政區政府
財經事務及庫務局
財經事務科
香港金鐘添美道二號
政府總部二十四樓



CB(1)1671/11-12(01)
FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION
24TH FLOOR
CENTRAL GOVERNMENT OFFICES
2 TIM MEI AVENUE
ADMIRALTY
HONG KONG

電話 TEL:

圖文傳真 FAX:

本函檔號 OUR REF:

來函檔號 YOUR REF:

2810 3066

2529 1663

23 April 2012

Clerk to Bills Committee
(Attn: Ms Anita Sit)
Legislative Council Complex,
1 Legislative Council Road,
Hong Kong

Dear Ms Sit,

**Bills Committee on Mandatory Provident Fund Schemes
(Amendment) (No.2) 2011**

Follow-up to meeting on 15 March 2012 – Items 1 and 2

Further to my letter of 20 April, please find the response of the Administration and the Mandatory Provident Fund Schemes Authority to items 1 - 2 on the list of follow-up actions arising from the discussion at the meeting on 15 March 2012 at the Annex. We will revert separately on item 9 of the list.

Yours sincerely,

A handwritten signature in black ink that reads 'Frederick'.

(Frederick Yu)

for Secretary for Financial Services and the Treasury

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011**

**List of follow-up actions arising from the discussion
at the meeting on 15 March 2012**

Items 1 and 2: Disclosure of information from frontline regulators (“FRs”) to Mandatory Provident Fund Schemes Authority (“MPFA”) and from MPFA to Complainants

Broadly speaking, the secrecy provision of an Ordinance governs the disclosure of information obtained in the exercise or performance of functions conferred or imposed by, or under the Ordinance. Under the Mandatory Provident Fund Schemes (Amendment) (No.2) Bill 2011 (“the Bill”), FRs (viz. Insurance Authority (“IA”), Hong Kong Monetary Authority (“HKMA”) and Securities and Futures Commission (“SFC”)) will be conferred the function and power to conduct investigations, including the power to obtain information as regards the MPF sales and marketing activities of registered MPF intermediaries assigned to them. Disclosure of information obtained by FRs and MPFA in the exercise of their functions under the Mandatory Provident Fund Schemes Ordinance (“MPFSO”) will be governed by MPFSO instead of the other ordinances. On the other hand, if FRs obtained information relevant to MPF sales and marketing activities in the exercise of their functions under their “primary ordinances”¹, the secrecy provisions in those ordinances will be applicable, which generally already provide for the disclosure information to other regulators (covering MPFA and FRs) in the prescribed circumstances with a view to assisting the recipient to discharge its functions.

2. As regards the exchange of information among MPFA and FRs, we have proposed a new section 42AA(1) in the Bill to ensure that FRs may disclose information to MPFA for the purpose of enabling or assisting the latter to perform its intermediary regulation (including disciplinary) function. This proposed new section will also allow disclosure of information from MPFA to FRs and among FRs for the purpose of enabling or assisting the recipient to perform functions under

¹ They are the Insurance Companies Ordinance (Cap. 41) in the case of IA; the Banking Ordinance (Cap. 155) in the case of HKMA; and the Securities and Futures Ordinance (Cap. 571), in the case of SFC.

Part IVA of the Bill. This would help ensure, inter alia, effective and efficient communication among the relevant regulators for the purpose of discharging their functions under Part IVA of the Bill.

3. MPFA will inform the complainant in writing of the outcome of the follow-up actions taken in respect of a complaint at the conclusion of an investigation or, where applicable, any resultant enforcement actions. Proposed section 34S requires MPFA to include in the Register of Intermediaries a record of the applicable disciplinary order that has been in force against the registered MPF intermediaries within the last five years. In this connection, we plan to introduce a Committee Stage Amendment (“CSA”) to the Bill to expressly empower MPFA to disclose to the public details of its disciplinary decision against regulated persons under the Bill, the reasons for which the disciplinary decision was made, and any material facts relating to the disciplinary case. This proposed CSA follows a similar CSA which has been agreed for the Securities and Futures (Amendment) Bill 2011 during a recent meeting of the relevant Bills Committee in February 2012. In practice, MPFA will disclose the information to the public through press release as well as direct to the complainants concerned. For an unsubstantiated case, MPFA will inform the complainant in writing that the investigation has been completed, the actions that have been taken to investigate the case and the outcome of the investigation. Explanations will be given as to the reasons for not taking further action, or not imposing disciplinary sanction in relation to the complaint, i.e. there was no, insufficient or even contrary evidence to substantiate the complaint.

Financial Services and the Treasury Bureau
Mandatory Provident Fund Schemes Authority
23 April 2012