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

Summary of views of organizations and individuals on the Bill and the Administration's response

*(Please see note)
(as at 27 March 2012)*

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Note: The views of the Law Society of Hong Kong (LSHK) set out in its submission LC Paper No. CB(1)1210/11-12(06) issued on 1 March 2012 are not included in this summary. At the meeting on 6 March 2012, the Administration has undertaken to meet with LSHK to discuss the latter's views on the Bill and report the results to the Bills Committee in due course.

A. Setting up a statutory Mandatory Provident Fund ("MPF") intermediaries regulatory regime		
Organization/individual	Views	Administration's response
(a) Replacement of the existing administrative regulatory arrangements by a statutory regime		
HKCIEA HKRSA HKIFA HKFI CMA HKCIB FHKKLU DAB FTU Mr YEUNG	Support replacing the existing administrative regulatory arrangements with a statutory regulatory regime	We welcome the support for the proposal to replace the existing administrative regulatory arrangements with a statutory regulatory regime.
LUAHK HKFI HKCIB GAMAHK HKAB HKCTU DAB FTU HKTAL	The proposed regulatory regime involves the Mandatory Provident Fund Schemes Authority ("MPFA") and three frontline regulators (FRs). The Administration should ensure regulatory consistency and a level playing field (e.g. the same standard should be applied by the FRs in their supervision and investigations).	<p>The proposed regulatory model reflects the general industry profile of MPF intermediaries carrying on MPF sales and marketing activities as incidental to their core business in banking, insurance or securities, as the case may be. The continuation of the existing regulatory approach would minimize disruption to the existing regulatory arrangements which MPF intermediaries are familiar with, make more efficient use of regulatory resources and facilitate early implementation of ECA.</p> <p>To ensure regulatory consistency and a level playing field, we have proposed to introduce various measures :</p>

		<ul style="list-style-type: none">(a) MPFA will be the sole authority to register MPF intermediaries according to the criteria set out in the Bill;(b) MPFA will be the sole standard-setter and be empowered to issue codes/guidelines, after consultation with the frontline regulators (“FRs”), for the purpose of giving guidance to registered MPF intermediaries on compliance with the statutory conduct requirements;(c) the Bill delineates clearly the respective powers and functions of MPFA and the FRs, and detailed arrangements will be set out in a Memorandum of Understanding among the regulators;(d) the Bill provides that, in case of misconduct by a registered MPF intermediary, MPFA will be the sole authority to order disciplinary sanctions, having regard to inter alia the information obtained by the FR from investigation;(e) all appeals against registration/disciplinary decisions with regard to MPF intermediaries by MPFA will be handled by a single independent appellate body, the Mandatory Provident Fund Schemes Appeal Board;(f) MPFA has established a regular liaison mechanism with all FRs to enhance communication and exchange views on issues relating to the regulation of MPF intermediaries; and
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		<p>(g) an independent Process Review Panel will be established to review the enforcement procedures of MPFA and FRs to ensure consistent enforcement among the FRs and within MPFA.</p> <p>In addition, to facilitate the handling of complaints by MPF scheme members, MPFA will be the central point for receiving all complaints on MPF sales and marketing activities and will conduct initial processing of the complaints. It will assign the complaints for follow-up by the relevant FRs as appropriate and maintain an oversight as well as inform the complainants of the outcome.</p>
Mr YEUNG	A new regulator be formed for unified regulation and dispute mediation between MPF scheme members and MPF intermediaries, so as to avoid duplication of regulatory efforts and resources.	The proposed institution-based regulatory approach reflects the general industry profile of MPF intermediaries carrying on MPF sales and marketing activities as incidental to their core business in banking, insurance or securities, as the case may be. It follows the arrangements under the existing administrative regime and would indeed enable efficient use of regulatory resources. Existing MPF intermediaries are also familiar with this regulatory approach. It would require minimal adjustments on their part, minimize compliance cost on them, and facilitate early implementation of ECA. During our consultation with the industry in 2011, the majority of the respondents did not indicate objection to this regulatory approach.
HKAB	Currently, intermediaries which are also Authorised Institutions must observe additional regulatory requirements (such as	The Bill sets out the conduct requirements for MPF intermediaries when engaging in regulated activities. MPFA will issue a single set of guidelines to provide

	<p>audio recording and restrictions on selling activities at designated investment corners) particularly where such activities take place at bank branches. The Administration and MPFA should streamline the marketing and selling of MPF products so that they are more consistent across all intermediary sectors regardless of their responsible FRs and regardless of the channels (whether bank branches or electronic channels) through which such activities take place. MPFA and FRs should engage the industries as early as possible to understand their concerns in working out a streamlined approach.</p>	<p>guidance in respect of the statutory standards of conduct expected of regulated persons who engage in conducting sales and marketing activities and giving advice in relation to registered schemes, irrespective of which sectors they come from. MPFA has circulated the draft guidelines to the industry for comment in late March 2012 and will provide the industry with ample opportunities to express their views.</p>
HKFI	<p>Although insurers are regulated by the Insurance Authority ("IA"), sponsored agents are actually regulated by HKFI. Therefore, apart from the three FRs, relevant self-regulatory organizations should be included in the supervision of MPF intermediaries.</p>	<p>Upon establishment of the proposed Independent Insurance Authority ("IIA"), it will be the FR (in place of the existing IA) for the regulation of MPF intermediaries from the insurance sector. Before that, the existing IA will be the FR for the regulation of MPF intermediaries from the insurance sector in the interim.</p>
HKRSA CMA GAMAHK	<p>These organizations express concern about additional costs arising from the increased regulation under the new regulatory regime, which might go against the expectation of fee reduction from increased competition. They consider that such increased cost should not be transferred to MPF scheme</p>	<p>The proposed institution-based regulatory approach largely follows the arrangements under the existing administrative regime and should not cause significant additional compliance costs. Moreover, while the Bill empowers MPFA to charge application and annual fees, it is MPFA's intention to waive the fees in the initial years of operation of the new regime. The plan of MPFA is that any fees, if</p>

	members.	<p>to be charged in future, would be set based on a cost recovery principle and will be implemented by way of subsidiary legislation subject to vetting by LegCo.</p> <p>It is believed that, generally speaking, with increasing market competition, trustees will likely absorb the additional marketing costs instead of transferring them to scheme members.</p>
FTU	The Administration should review the operation of the proposed regulatory regime after the two-year transitional period.	MPFA will monitor the implementation of the new system and keep in view the effectiveness of the regulatory regime.
(b) Regulated activities		
HKIFA	The exclusions and exemptions from the scope of regulated MPF sales and marketing activities should be limited to those giving advice to corporate clients. Notwithstanding this suggestion, registered MPF trustees and administrators should be granted exclusions and exemptions on both employer and employee levels when they act in their capacity of trustee and/or administrator of the scheme.	<p>The proposed exceptions in the Bill are intended to cover those who give advice on MPF schemes wholly incidental to their ordinary course of business, which is already subject to regulation under the relevant legislation governing those businesses. This is in line with the exclusions/exemptions provided under the Securities and Futures Ordinance (“SFO”).</p> <p>The Bill provides for certain exceptions regarding prohibitions against carrying on regulated activities. In particular, approved trustees are not prohibited from carrying on regulated activities or from holding themselves out as carrying on regulated activities for the purpose of complying with a requirement in relation to trustees’ functions under the MPFSO (c.f. proposed section 34M(3)). This exception would also apply to employees of</p>

		approved trustees.
HKFI	<p>(a) The Administration and MPFA should provide clear information on the coverage of the regulated activities.</p> <p>(b) The Administration should clarify what competence it expects an MPF intermediary to possess in advising clients on the selection of MPF schemes or funds.</p>	<p>The Bill defines clearly in proposed section 34F the scope of regulated activities and sets out in proposed section 34M which groups of persons, for what purposes and under what circumstances, are permitted to carry on regulated activities without registration.</p> <p>MPFA will facilitate compliance by the industry by promulgating guidelines and/or frequently-asked-questions (“FAQs”) to provide practical guidance to MPF intermediaries.</p> <p>MPFA will facilitate compliance by the industry by promulgating guidelines and/or FAQs to provide practical guidance to MPF intermediaries. In particular, the Guidelines and/or FAQs will elaborate on the requirements for advising clients on the selection of MPF schemes/constituent funds.</p>
HKAB	<p>(a) Under the current Code of Conduct for MPF Intermediaries, actuaries giving advice in their professional capacity are exempt from being registered as MPF intermediaries. This exemption should continue to be made available to actuaries under proposed section 34L.</p>	<p>The exceptions provided under proposed section 34M of the Bill will exempt those professionals (i) who may, incidental to their practice in the profession, give regulated advice and (ii) who are already subject to the regulation of their own regulatory regime for their practice, including the giving of advice. While actuaries may be subject to regulation of their profession, we consider that any regulated advice given by actuaries should not be regarded as wholly incidental to their practice as actuaries. Therefore, exemptions are not provided to them.</p>

	<p>(b) The Administration should clarify proposed section 34F as follows:</p> <p>(i) Clarify proposed section 34F(4) to the effect that an advice including an opinion given generally without reference to any particular registered scheme such as whether or when a person is required to make mandatory contributions under the MPF legislation and the amount of such mandatory contributions to be made, will not be considered as providing regulated advice;</p> <p>(ii) Clarify proposed section 34F(5)(d) so as to provide that the "amount of contributions" referred to therein relate to the contributions to be so paid as described under proposed section 34(5)(c);</p> <p>(iii) Clarify proposed section 34F(5)(f) so as to provide that the "amount of accrued benefits" referred to therein relate to the accrued benefits to be so transferred as described under proposed section 34(5)(e);</p>	<p>Proposed section 34F(4) provides that "regulated advice" refers to an opinion given in relation to the matters specified in proposed section 34F(5), which do not include an opinion given generally without reference to any particular registered scheme/constituent fund.</p> <p>Taking into account the views expressed, we will propose a Committee Stage Amendment ("CSA") to make proposed sections 34F(5)(d), (f), (g) and (j) self-contained by directly including therein the context for the amounts of benefits to be paid, invested, transferred or for the amount of claim.</p> <p>Ditto.</p>
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	<p>(iv) Clarify proposed section 34F(5)(h) so as to provide that the "amount of benefits" referred to therein relate to the benefits to be so transferred as described under proposed section 34(5)(g); and</p> <p>(v) Clarify proposed section 34F(5)(j) so as to provide that the "claim" referred to therein relate to the claim made as described under proposed section 34(5)(i).</p>	<p>Ditto.</p> <p>Ditto.</p>
LUAHK	<p>Intermediaries may contravene the rules and regulations made by the Securities and Futures Commission regarding the scope of investment in their sale of MPF schemes, as it will be easy for intermediaries' activities to fall within the scope of "giving investment advice" when they explain the details of the schemes to MPF clients. MPFA should explain matters relating to the licensing requirements for MPF intermediaries.</p>	<p>Whether registered MPF intermediaries are required to obtain a licence from SFC in giving advice to clients in selling or marketing MPF products would depend on the nature of advice given in the process.</p> <p>MPFA has advised that in general, an MPF intermediary would not be required to have a SFC licence if the advice or sales activities is confined to advice or sales activity about participation in MPF schemes. Provided that the advice or sales process does not, for example, touch on "advising on securities" as defined under the SFO, the registered MPF intermediary would not need to have a SFC licence.</p> <p>MPFA will issue further guidance to clarify the requirement.</p>

GAMAHK	The Administration should clarify whether an MPF intermediary without a Type 4 licence under the SFO may give advice to his customers about fund choices in MPF products.	Please refer to our response to LUAHK above.
(c) Registration of intermediaries		
HKAB	<p>(a) If the MPFA considers that an FR assigned to a principal intermediary ("PI") should be replaced, it should be required to give a notice in writing to the relevant PI including a statement of reasons for such replacement. The relevant PI should be given an opportunity to make representations as to why such replacement should not be made.</p> <p>(b) It is noted that the application for registration as a PI, subsidiary intermediary ("SI"), approval for attachment of an SI to a PI and approval of a responsible officer ("RO") must be made in specified forms. Market players should be consulted if the information required to be provided under these forms differs from what is currently required to be approved.</p>	<p>In practice, MPFA would seek information and views from the relevant parties (viz. the PI and the frontline regulators concerned) before making any re-assignment. The views of the relevant PI will be taken into consideration before deciding on the re-assignment.</p> <p>The information required to be provided in the forms will reflect the nature of the approval criteria and requirements under the relevant provisions of the Bill.</p>

	<p>(c) Suggest proposed section 34S(1)(d) be clarified to provide that only MPF-related disciplinary order imposed on such registered intermediary be included in the register as agreed by the MPFA in the consultation conclusion.</p> <p>(d) Suggest proposed section 34S(1)(f) be deleted as it is too broad and does not provide certainty as to what information will be disclosed in the register.</p>	<p>The information to be contained under the proposed section 34S(1)(d) refers only to those disciplinary orders made by MPFA under proposed section 34ZW (except section 34ZW(5)(b)).</p> <p>“Any other particulars” that would be included in the register will have to be prescribed by rules, which will be subsidiary legislation subject to vetting by LegCo.</p>
HKCIB	<p>(a) There is no provision in the Bill allowing a PI to appoint more than one person as its RO.</p> <p>(b) The proposed section 34ZF seems to imply that when a person with multiple attachments to a number of PIs ceases to be an SI of one of the PIs, his attachment to the remaining PIs will be revoked. The Administration should clarify whether this is the section's intention.</p>	<p>The Bill only requires that there has to be at least one RO for each PI but it does not restrict the number of RO to be appointed. Indeed, MPFA advised that it encouraged PIs, especially the larger PIs, to appoint more than one RO to ensure compliance with the relevant provisions.</p> <p>We will propose a CSA to clarify that only the relevant attachment will be revoked under the circumstances described.</p>

	(c) The Administration should provide more information on the Annual Return to be delivered by a registered MPF intermediary to MPFA as required under the proposed section 34ZO.	MPFA will provide more details to the industry after passage of the Bill.
HKFI	<p>(a) The Administration should clarify what kind of information as well as disciplinary actions would be published in the register;</p> <p>(b) It is suggested that the publication should limit to the SI if the disciplinary action is towards a particular SI. Such publication should not extend to the PI concerned.</p>	<p>Proposed section 34S of the Bill sets out clearly the information that will be included in the Register.</p> <p>Disciplinary orders that have been in force against a registered intermediary (whether PI or SI) within the last 5 years will be included in the Register. In the case of an SI, the disciplinary order shown in the Register would only be in relation to the SI concerned and will not be extended to the relevant PI.</p>
(d) Conduct and other requirements for intermediaries and responsible officers		
HKRSA	(a) The wording of the Conduct Requirements is quite broad and subject to interpretation. Some provisions in the code are vague and far reaching, and potentially lead to mis-understanding and difficulty in knowing what is or is not permissible or acceptable under the code.	MPFA will issue a set of guidelines to provide guidance to MPF intermediaries about compliance with the statutory conduct requirements. The draft guidelines are currently under consultation. The industry is welcomed to reflect their views on the draft to MPFA. MPFA will also provide FAQs where necessary to facilitate industry compliance.

	<p>(b) Support the prohibition on intermediaries to offer incentives to MPF members other than a rebate on fees.</p> <p>(c) There is concern regarding the obligations being put on ROs under the Bill in that it could require them to actively ensure compliance of their licensees which could be as many as 30 to 40.</p>	<p>Comment noted.</p> <p>We consider it important for PIs to have senior staff to ensure their SIs comply with the requirements in place for scheme members' protection. There are similar requirements under the SFO. PIs are encouraged to appoint more than one RO, especially for the larger PIs, to ensure that the appointed ROs will be able to properly discharge their roles.</p>
<p>HKAB</p>	<p>Proposed section 34ZL(1) requires a PI and an SI to comply with certain conduct requirements in carrying out a regulated activity ("performance requirements"). These performance requirements are mainly adopted from the general principles for the conduct of business of MPF intermediaries under the current Code of Conduct for MPF Intermediaries. These are principles rather than objective standards which may be adhered to in a manner appropriate to the circumstances applicable to a particular MPF intermediary. Given the consequences of non-compliance with the performance requirements are more severe than non-compliance under the Code of Conduct, it would be more appropriate that proposed section 34ZL makes reference to such</p>	<p>Please refer to para. 1 of our response to HKRSA above (first entry under Part A(d)).</p>

	standards of conduct as may be issued by MPFA from time to time in a non-statutory code.	
HKCTU	As many employees still have limited knowledge about investment, it is thus necessary to set out in the Code of Conduct for MPF intermediaries the essential information, including the charging approach and the risk of MPF schemes, to be provided by intermediaries to their clients.	Under proposed section 34ZL of the Bill, a registered intermediary is required to disclose information to his client that is necessary for the latter to make informed MPF decisions. MPFA will issue a set of guidelines on the statutory conduct requirements which will provide guidance to intermediaries as to what information should be disclosed to a client. The disclosure requirements include informing clients the relevant fees and charges and risk levels of constituent funds, among others.
GAMAHK HKFI	The Administration and MPFA should provide details on MPF intermediaries' registration fee and annual fee, including the arrangements after the two-year transitional period.	While the Bill empowers MPFA to charge application and annual fees, it is MPFA's intention to waive the fees in the initial years of operation of the new regime. MPFA advised that any fees in future would be set at levels based on the cost recovery principle and will be implemented by way of subsidiary legislation subject to vetting by LegCo. MPFA will seek industry views on its proposals in the process.
LUAHK	As the Bill empowers MPFA to collect registration and annual fees from MPF intermediaries, the authorities concerned should canvass the views of the industry on issues such as the charging levels and the arrangements concerned.	Please refer to our response to GAMAHK and HKFI above.

(e) Supervision and disciplinary matters		
HKAB	Notwithstanding the powers conferred on the MPFA under the proposed section 34P, MPFA should in general rely on the FRs to conduct any necessary investigation as the FRs are more familiar with the industry concerned.	We note the comment. The investigation power under proposed section 34P is in relation to conduct of regulated activities without registration, including also by those persons without any requisite registration qualification in either the banking, securities or insurance sector. The Bill provides the flexibility for MPFA either to conduct the investigation itself or to nominate an industry regulator to assist MPFA in the investigation. The actual arrangement will depend on the circumstances of individual cases.
HKCIB	The proposed section 34ZW(5)(b) allows the MPFA to privately reprimand a regulated person and the proposed section 34S(d) provides that such disciplinary order need not be recorded on the Register of MPF Intermediaries which is open to the public for inspection. The Administration should consider removing such provisions.	In determining the range of disciplinary sanctions, reference has been made to the SFO which includes both public and private reprimands. Private reprimands generally apply to non-compliance / misconduct which is less serious in nature.
FHKCLU	The Administration should also take into account the job security of the intermediaries and give those who have been convicted of misconduct a chance to turn over a new leaf, instead of denying them the opportunity to work in the industry forever because of one single mistake.	The Bill sets out a range of disciplinary sanctions (reprimand, fine, suspension and revocation of registration/approval and disqualification for re-registration for a specified period of time) against registered intermediaries for non-compliance with the statutory performance requirements. The disciplinary sanctions to be imposed would depend on the seriousness of the non-compliance. The Bill already provides for various procedural safeguards for registered MPF intermediaries, including opportunity of being heard and

		independent appeal channel.
(f) Remuneration disclosure and conflict of interests		
HKCIB	The Administration should, in respect of the proposed section 34ZL(1)(f), clarify whether an MPF intermediary being remunerated by product providers would constitute a conflict that has to be disclosed and to what extent.	MPFA will issue a set of guidelines on conduct requirements which will cover, among others, guidance on disclosure of conflict of interests, in particular, disclosure of information about monetary and non-monetary benefits receivable by the intermediary. The draft guidelines are currently under consultation. The industry is welcomed to reflect their views on the draft to MPFA.
HKFI	The Administration should clarify whether MPF intermediaries receiving benefits in relation to services and/or advices provided would be considered as conflict of interests.	Please refer to our response to HKCIB above.
PIBA	MPFA should clearly set out and issue appropriate guidelines on the issue of remuneration disclosure by MPF intermediaries to the clients (e.g. whether the disclosure should be in an amount, a percentage, or a range of percentage and at what level it should be disclosed, i.e. broker corporation or technical representative).	Please refer to our response to HKCIB above.
FTU	The fees of MPF intermediaries should be disclosed to the public.	Please refer to our response to HKCIB above.
HKRSA	The Administration and MPFA should consider reviewing the professionalism,	MPFA will keep in view market development.

	<p>standards and impartiality of MPF intermediaries, including more involvement from independent financial planners and consideration to a movement away from a commission basis to a fee basis for compensation.</p>	
<p>(g) Transitional arrangements</p>		
<p>LUAHK</p>	<p>It is stipulated in the Bill that all existing MPF intermediaries are required to re-register with MPFA during the transitional period in order to attain the registration status. The Administration should state clearly the requirements for registration approval, and ensure that MPFA can process the applications in a timely manner, so as to avoid causing delay to the intermediaries' registration and the follow-ups for clients.</p>	<p>The registration procedures and requirements are set out in the Bill (c.f. proposed Division 4 of the Bill). MPFA will issue guidance on registration to facilitate compliance.</p> <p>MPFA will encourage intermediaries to apply early during the two-year transitional period and liaise with PIs on the timing of their own applications and those of their SIs such that the applications can be more evenly staggered to facilitate better management of the applications.</p>
<p>HKFI</p>	<p>The Administration should clarify: (a) whether all existing MPF intermediaries are required to re-register in the two-year transitional period in order to be allowed to conduct MPF sales and marketing activities;</p>	<p>All existing MPF intermediaries with valid registration with MPFA immediately before commencement of the proposed statutory regime may continue to carry on regulated activities for two years. They are required to apply to MPFA within the transitional period for registration under the statutory regime if they wish to continue to carry on MPF sales and marketing activities after expiry of the transitional period.</p>

	<p>(b) whether the re-registration process involve any examination or cost.</p>	<p>MPF intermediaries registered under the new regime by virtue of the transitional arrangements will not be required to take the qualifying examination when they apply for registration before expiry of the transitional period. Such registration would not entail additional cost on the intermediaries as MPFA intends to waive the registration/annual fee during the initial years of operation of the statutory regulatory regime.</p>
<p>DAB</p>	<p>Sufficient time should be provided for the transitional arrangements to facilitate the smooth implementation of the Employee Choice Arrangement ("ECA").</p>	<p>Assuming the Bill can be passed within the current legislative session, the proposed statutory regime and ECA will be implemented on 1 November 2012.</p> <p>On this basis, trustees will be given at least three months after enactment of the Bill for updating their internal control guidelines and promotion materials, etc. before launching ECA. MPFA has also been working on preparatory work on various fronts, including the preparation and testing of the E-platform, and training of MPF intermediaries. On publicity front, MPFA has been continuing its public education programme and will conduct more proactive publicity nearer the time of implementing ECA.</p> <p>Please refer to our response to HKFI above for transitional arrangement for MPF intermediaries.</p>

(h) Other issues		
HKCIB	The Hong Kong Confederation of Insurance Brokers is defined as a "relevant insurance body" under the proposed section 34E and referred to as a "body of insurance brokers" under the proposed sections 34J, 34K and Schedule 5B. Use of one single term is called for.	The term "relevant insurance brokers" in the Bill is defined to mean HKCIB and PIBA. The term "body of insurance brokers" is used in a context in proposed sections 34J, 34K and Schedule 5B that should be read in conjunction with "approved by the Insurance Authority under section 70 of the Insurance Companies Ordinance (Cap. 41)". In the latter case, it refers to any body approved under the said provision.

B. Establishing an electronic transfer system (“E-platform”) for transfer of MPF benefits		
Organization/individual	Views	Administration's response
CMA Mr YEUNG	Support the proposed establishment of a E-platform for transfer of MPF benefits	We welcome the support for the proposed establishment of a E-platform.
HKCIEA HKFI CMA GAMAHK HKCTU FHKKLU Mr YEUNG	These organizations raise concern on whether the fee payable for the use of the E-platform would lead to an increase in the administration cost of trustees and the fees charged on MPF scheme members.	<p>The development costs of the E-platform would be borne by MPFA. To facilitate the smooth implementation of ECA, MPFA intends not to charge a fee for the E-platform service during the initial stage. Any such fee will be determined in due course with reference to the costs likely to be incurred by MPFA in the transfer process, and MPFA will seek industry’s views on any proposal to collect fees . Such proposal would need to go through the necessary legislative procedures.</p> <p>According to MPFA’s initial assessment, the fee payable by MPF trustees in future to use the E-platform would not be higher than the costs incurred by them for benefit transfers through written documents under the existing transfer arrangement.</p>
HKRSA	(a) Given the limitations of the E-platform as a data sharing device rather than a total transfer platform including payment and accounting of funds, the Association questions whether MPFA should charge a fee for use of the E-platform even after the initial period.	<p>The operation of the E-platform system will facilitate transfer process by trustees and increase information security. MPFA has already absorbed the development cost of the E-platform.</p> <p>MPFA intends not to charge a fee on the trustees for use of the E-platform service during the initial stage. Any fee to be charged in future to cover the running cost will be determined with reference to the costs likely to be</p>

		incurred by MPFA in the transfer process and any fee proposal will need to go through the necessary legislative procedures.
	(b) The Government and MPFA may use the E-platform experience to look to the bigger picture of potential administrative cost savings which may be achieved from developing a centralized total MPF administration platform.	<p>We note the comments.</p> <p>Centralized administration may give rise to a wide range of issues which need to be considered carefully. This would also require substantial reform to the existing System as a result of the proposed change.</p> <p>In order to identify ways to further simplify administrative processes under the MPF System and with the aim of reducing costs, thereby allowing room for further fee reductions, MPFA has embarked on a consultant study on MPF trustees' administration costs. The Consultant is expected to submit a report to the MPFA in mid-2012.</p>

C. Enhanced deterrent against default contributions		
Organization/individual	Views	Administration's response
CMA	<p>As sanctions under the existing Mandatory Provident Fund Schemes Ordinance (Cap. 485) already have sufficient deterrent effect, it is not necessary to make provisions for imposing a daily fine on employers who continuously commit the offence of defaulting on MPF mandatory contributions for their employees. As for cases involving employers who fail to comply with a court order made in civil proceedings for the payment of MPF contributions and surcharges in arrears, remedies should be pursued in civil proceedings instead of creating a new offence to criminalize the default of such payments.</p>	<p>Under the current MPF legislation, an employer who has been convicted for failure to make mandatory contributions for a relevant employee cannot be prosecuted again even if he persistently fails to rectify the default situation. This will jeopardize the interests of those employees who are owed mandatory contributions by convicted employers who refuse to rectify. The proposed daily penalty seeks to ensure that the employer concerned will rectify the situation and make good the default without delay.</p> <p>The proposed offence is expected to create greater deterrent effect against default on court orders, so as to enhance the effectiveness and efficiency in enforcing the award, thereby enhancing better protection of employees' benefits.</p> <p>We also note that the Employment Ordinance (Cap. 57) ("EO") introduced in 2010 a similar proposal. It is an offence under section 43P of that Ordinance if an employer fails to pay any sum awarded by the Labour Tribunal or the Minor Employment Claims Adjudication Board]. The amendment to EO has brought calls for the introduction of similar measures to the MPF regime. We have made reference to EO and consulted the Labour Advisory Board before putting forward the proposed amendment.</p>

<p>HKCIEA HKRSA FTU HKCTU Mr YEUNG HKCTU</p>	<p>Support the proposed measures in the Bill to strengthen the deterrent against default contributions.</p>	<p>We welcome the support to strengthen the deterrent against default contributions.</p>
<p>FHKKLU</p>	<p>The fine for default contributions should be raised.</p>	<p>The penalty for default contributions has been increased to a maximum fine of \$450,000 and four years' imprisonment through the amendment of the Mandatory Provident Fund Schemes Ordinance in 2008. Such level is on a par with the maximum penalty for default wages under the Employment Ordinance.</p>

<p>D. Mandatory Provident Fund Schemes Appeal Board</p>		
<p>Organization/individual</p>	<p>Views</p>	<p>Administration's response</p>
<p>LUAHK</p>	<p>As the Bill seeks to extend the power of the Mandatory Provident Fund Schemes Appeal Board, community elites with profound knowledge of the operation of the industry, such as experienced members of the insurance sector, should be brought into the framework to ensure that a balance is maintained between regulatory control and free operation of the industry.</p>	<p>We have proposed in the Bill to include persons who, in the Chief Executive's opinion, represent the interests of regulatees as well as employees respectively in the panel of members of the Mandatory Provident Fund Schemes Appeal Board.</p>
<p>GAMAHK</p>	<p>The Mandatory Provident Fund Schemes Appeal Board should include representatives from the industry.</p>	<p>Please see our response to LUAHK above.</p>

E. Miscellaneous issues		
Organization/individual	Views	Administration's response
(a) Enhancements of the MPF Scheme		
HKCTU	Apart from the ECA, the Administration should explore other means to lower the administration fees of MPF trustees.	<p>Since September 2007, all MPF trustees have reduced fees or introduced MPF funds at lower fees. The average expense rate of MPF funds has lowered from 2.1% in January 2008 to 1.77% in February 2012, representing a drop of nearly 16%. Notwithstanding this, other measures, in addition to the ECA, are being pursued by the Government and MPFA with a view to further driving down fees:</p> <p>(a) MPFA has commissioned a consultancy study on the administrative costs of MPF trustees that aims to identify ways to further simplify administrative processes and facilitate cost reduction and ultimately fee reduction. The Consultant is expected to submit a report to MPFA by mid 2012;</p> <p>(b) subject to the approval of the Legislative Council of the proposed amendment to the relevant subsidiary legislation, we plan to implement an automatic levy suspension and resumption mechanism for the MPF Compensation Fund by the end of this year. If implemented, the annual levy could be suspended before end 2012 and reflected as a reduction of fund expenses which would benefit scheme members;</p> <p>(c) continued improvement of the quality of disclosure of fees and charges to ensure that scheme members</p>

		<p>are provided with fee information that is easy to understand, timely and comparable, as well as further stepping up of education and publicity; and</p> <p>(d) encouraging trustees to consider inclusion of low cost index options when applying for approval of new funds. At present, there are already 18 index tracking constituent funds in the MPF System.</p>
FTU	<p>(a) The Administration should examine the feasibility of implementing "one single life-time MPF account".</p> <p>(b) The Administration should consider abolishing the arrangement of offsetting of severance and long service payments under the MPF System.</p>	<p>MPFA has been exploring ways to further improve the operation of the MPF System. Among others, MPFA is studying the feasibility of establishing a central database capturing information on the distribution of employees' accrued benefits, which will facilitate the implementation of full portability. The experience in implementing ECA and the outcome of the feasibility study on the central database will provide a useful basis for MPFA to consider the implementation of full portability arrangement for MPF in future.</p> <p>Comment noted.</p>
HKRSA	<p>(a) The ECA may be extended to the employer mandatory balances and voluntary balances.</p>	<p>MPFA is studying the feasibility of establishing a central database as a supporting measure for implementing full portability in future. MPFA expects that preliminary results of the study will be available within the 2012-13 financial year.</p>

		<p>The experience in implementing ECA and the outcome of the feasibility study on central database will provide a useful basis for MPFA to consider the implementation of full portability arrangement for MPF in future.</p> <p>The transfer arrangement of accrued benefits derived from employers' voluntary contributions is subject to the governing rules of the relevant MPF schemes.</p>
	(b) The Administration should consider helping employees make reasonable decisions in consolidating their preserved accounts.	MPFA has been making intensive efforts in public education and publicity for scheme members and will continue with these efforts.
HKCTU DAB FTU	The Administration should review the feasibility of implementing a full portability arrangement for the MPF Scheme.	Please refer to our response to HKRSA above.
HKFI	MPF intermediaries should have the ability to guide the MPF scheme members to read the fund fact sheet. As such, the Administration could consider including the fund fact sheet training/education in the MPF intermediaries' examinations for sales and marketing activities.	The fund fact sheet and other relevant topics relating to disclosure requirements on MPF funds are already included in the syllabus of the examination for MPF intermediaries.
Mr HO	The Administration should let the public prepare for their retirement. As such, the	The MPF System commenced operation in December 2000. As at 31 December 2011, the MPF System has

	<p>Administration may consider abolishing the MPF Scheme.</p>	<p>accumulated over \$356 billion for over 2.5 million scheme members. Together with other retirement schemes, 85% of the working population have some form of retirement protection, as compared with one-third before implementation of the System. During this period, the annualized internal rate of return of the MPF System (net of fees) is higher than the Consumer Price Index. Overall, the MPF System has achieved its objective of assisting the working population to accumulate retirement savings.</p> <p>The Administration and MPFA will continue to review and improve the operation of the MPF System.</p>
<p>Mr LAM</p>	<p>People suffering from serious illnesses and those reaching 60 years old should be allowed to withdraw their MPF accrued benefits earlier.</p>	<p>Current MPF legislation already provides that a scheme member who retires at age 60 and certifies to the approved trustee of the scheme by statutory declaration that he has permanently ceased his employment or self-employment shall be entitled to withdraw his MPF benefits.</p> <p>Moreover, MPFA has just completed an open consultation on 31 March 2012 on its proposal to allow scheme members with terminal illness to withdraw MPF benefits earlier. MPFA is analyzing the comments received on this issue.</p> <p>The Government will take appropriate follow up actions when MPFA submits its recommendations on the above initiative in due course.</p>

(b) Publicity and public education		
HKFI Mr YEUNG DAB HKTAL HKRSA	The Administration and MPFA should step up its publicity work and public education on the MPF Scheme.	Please refer to our response to HKRSA to Part E(a) above.
(c) Other issues		
ClearTheAir ACTC WLF	The Mandatory Provident Fund Schemes Ordinance (Cap. 485) does not have any sections restricting unethical investment in industries like munitions, blood diamonds, tobacco, etc. The Administration may review this issue.	MPFA will take into account the views expressed, among others, in its future review of investment regulations.

Abbreviations for organizations/individuals:

ACTC	Asian Consultancy on Tobacco Control
CMA	The Chinese Manufacturers' Association of Hong Kong
DAB	Democratic Alliance for the Betterment and Progress of Hong Kong
FHKKLU	The Federation of Hong Kong and Kowloon Labour Unions
GAMAHK	General Agents & Managers Association of Hong Kong
HKAB	The Hong Kong Association of Banks
HKCIEA	The Hong Kong Chinese Importers' & Exporters' Association
HKCTU	Hong Kong Confederation of Trade Unions
HKCIB	The Hong Kong Confederation of Insurance Brokers
HKFI	The Hong Kong Federation of Insurers
FTU	The Hong Kong Federation of Trade Unions
HKIFA	The Hong Kong Investment Funds Association
HKRSA	The Hong Kong Retirement Schemes Association
HKTAL	Hong Kong Trustees' Association Limited
LUAHK	The Life Underwriters Association of Hong Kong
PIBA	Professional Insurance Brokers Association
WTF	World Lung Foundation
Mr HO	Mr HO Man-kit, Raymond, Sai Kung District Council member
Mr LAM	Mr LAM, a member of the public
Mr YEUNG	Mr YEUNG Wai-sing, MH, Eastern District Council member