OFFICIAL RECORD OF PROCEEDINGS

Tuesday, 19 June 2012

The Council continued to meet at half-past Four o'clock

MEMBERS PRESENT:

THE PRESIDENT
THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.S., S.B.ST.J., J.P.

THE HONOURABLE LEE CHEUK-YAN

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, S.B.S., J.P.

DR THE HONOURABLE MARGARET NG

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.B.S., J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, S.B.S., J.P.

THE HONOURABLE LI FUNG-YING, S.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE CHEUNG KWOK-CHE

PUBLIC OFFICER ATTENDING:

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

CLERKS IN ATTENDANCE:

MR ANDY LAU KWOK-CHEONG, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): The Second Reading debate on Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 now continues. Mr WONG Ting-kwong, you may continue with your unfinished speech from the previous meeting.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2) BILL 2011

Resumption of debate on Second Reading which was moved on 14 December 2011

MR WONG TING-KWONG (in Cantonese): President, before the meeting resumes, I spoke for the Bills Committee on its report of the Bill. The following is my views on the Bill.

To tie in with the introduction of the Mandatory Provident Fund (MPF) Employee Choice Arrangement (commonly known as "MPF Semi-portability"), the Government has planned to replace the current practice of the Mandatory Provident Fund Schemes Authority (MPFA) of regulating MPF intermediaries only through an administrative regime with a comprehensive statutory framework for better protection of the interests of MPF scheme members. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports this.

Employees have looked forward to the implementation of MPF "Semi-portability" for quite some time, which will give them greater autonomy in the arrangement for their MPF contributions. In fact, the Mandatory Provident Fund Schemes (Amendment) Bill 2009 was passed in the Legislative Council in July 2009 to form the statutory basis for the introduction of MPF "Semi-portability". However, in the wake of the financial tsunami in 2008 and the Lehman Brothers minibond incident in 2009, the public have developed a

growing concern about investor protection and a greater demand on regulators in this aspect. Moreover, it is expected that upon the implementation of MPF "Semi-portability", intermediaries engaged in product sales will proactively carry out marketing activities targeted at scheme members and launch diversified product schemes to compete for clients.

However, under the existing Mandatory Provident Fund Schemes Ordinance, the MPFA does not have any supervision powers over intermediaries engaged in product sales, and even the practice of intermediaries registered through the MPFA examination lacks a legal basis. Under the new scheme where employees can choose MPF trustees to transfer their accrued benefits every year, the existing regulatory arrangement becomes very undesirable. Therefore, in the absence of a law that imposed regulation on intermediaries back then, it was really difficult for MPF "Semi-portability" to be implemented. The authorities thus decided to legislate for stronger regulation of MPF intermediaries before implementing MPF "Semi-portability", so as to offer further protection for the interests of scheme members.

Although MPF "Semi-portability" is not implemented until today after repeated urges for more than two years, the DAB agrees that to open up the MPF market step by step by introducing MPF "Semi-portability", it is more prudent and appropriate to provide for a full regulatory regime for intermediaries, particularly to step up the supervision over the methods and modes of operation in the sales and marketing of MPF products by intermediaries to reduce the incidence of the interests of scheme members being jeopardized as a result of mis-sale by intermediaries, so as to pre-empt the recurrence of massive mis-sale similar to the Lehman Brothers minibond incident in the past.

President, the Bill proposes the continued adoption of the existing regulatory approach, that is, MPF intermediaries will remain under the supervision of regulators in the respective sectors to which their employers belong, meaning the Hong Kong Monetary Authority, the Office of the Commissioner of Insurance and the Securities and Futures Commission will act as front-line regulators (FRs) responsible for the supervision and investigation of MPF intermediaries in their respective sectors, in order to assist the MPFA in performing its duties. And, the MPFA will be responsible for administering the registration of MPF intermediaries, formulating guidelines on compliance with statutory requirements for registered MPF intermediaries, and imposing

disciplinary sanctions. In this connection, the DAB thinks that the authorities must ensure that consistent standards will be applied by the four regulators in the regulation of the business operation of intermediary institutions and intermediaries, the investigation of the alleged misconduct of intermediaries and the enforcement of sanctions, so as to avoid unfair competition among different sectors.

Regarding the various measures stipulated in the Bill to ensure regulatory consistency and a level playing field, the DAB hopes that the authorities will enforce them effectively. And, the authorities should also have learnt from the experience of the Lehman Brothers incident where the loophole of unclearly-defined powers and responsibilities as well as confusing authority in the regulatory system of "multiple regulators for one industry" was highlighted to strengthen communication with different regulators and effect clear division of work in a bid to improve the regulatory system of "multiple regulators for one industry", thus enhancing the effectiveness of the system in operation.

MPF intermediaries have expressed concern about the scope of regulated MPF sales and marketing activities, the necessary conduct requirements and the registration arrangements during the transition period. And, they hoped that specific elaboration on the relevant policy proposals would be provided. Apart from stipulating these policy proposals in the Bill, the authorities have advised that guidelines will be promulgated and frequently-asked questions be issued to provide practical and specific guidance for the industry. And, the authorities have consulted the industry on the relevant draft Guidelines. I have received industry views on the Bill, particularly on the disclosure of remuneration. I urge the authorities to extensively gauge the views of the industry on the Guidelines to understand their demands and concerns, so as to formulate appropriate and clearly-defined guidelines after striking a balance between the interests of the industry and the protection of the rights and interests of scheme members.

Moreover, regarding the establishment of an E-platform for transmission of data on transfer of MPF benefits as proposed in the Bill, the DAB agrees to this proposal because it will enable trustees to perform more efficiently in the transfer of accrued benefits. However, the authorities have advised that the development costs of the E-platform will be borne by the MPFA and trustees will not be charged at the initial stage of implementation of the measure. As to the fee level in future, it will be determined in the relevant subsidiary legislation to be

introduced into the Legislative Council. In this connection, given that the average MPF expense ratio of Hong Kong is 1.74%, which is among the highest in the world, the DAB hopes that trustees will not transfer the costs of E-platform to MPF scheme members to further nibble away their rights and interests. Although the authorities expect the implementation of MPF "Semi-portability" will intensify market competition to drive down fees charged by MPF trustees, this is only one of the feasible measures. The DAB earnestly hopes that the authorities will continue to examine ways to streamline administrative procedures and reduce costs of the MPF system to facilitate the formulation of more effective measures to lower administrative expenses.

Moreover, the DAB thinks that in order to tie in with the introduction of MPF "Semi-portability", the Government should step up its efforts in publicity and education currently. Apart from enabling MPF intermediaries to have a clear understanding of the requirements and sanctions imposed on them in the Bill, the Government should also constantly remind the public of matters of concern in the choice of MPF trustees, including to consider their own actual needs, investment objectives and risk tolerance level in the choice of suitable MPF schemes; to avoid being easily and simply appealed by funds with high-return records in the past; to avoid recklessly transferring their accrued benefits to a new trustee account under the influence of sales gimmicks of intermediaries; never to blindly switch to a new trustee with the mentality of "switching for the sake of switching" and "switching because others do"; and to remain vigilant at all times not to authorize intermediaries to transfer the accrued benefits from their accounts. Such efforts will be beneficial to the smooth and gradual expansion of MPF "Semi-portability" by the Government in future. Before the introduction of MPF "Semi-portability" in November this year, the Government should also ensure that there is enough time for the market to get prepared during the transition period to put in place various supporting measures to facilitate the smooth implementation of the new arrangement.

As to the respective amendments proposed by Mr KAM Nai-wai and Mr WONG Sing-chi, the DAB objects to them. First, Mr KAM Nai-wai proposes in his amendment the addition of clause 45G(1A) concerning the right to institute civil proceedings to claim monetary losses. It is proposed in one of the items that investors can bring in the MPFA proceedings to seek damages from regulators. The DAB thinks that claims for compensation should be considered by the Court through legal proceedings. And, no details are given on the

proposed procedure, including whether or not there is the right to appeal. Therefore, the proposal is not well thought through. It is proposed in another item that investors have the right to institute legal proceedings in court to seek damages from regulators. The DAB thinks that it is anticipated scheme members will sustain losses mainly due to misrepresentation of intermediaries in the sales or marketing of MPF schemes. And, at present, section 108 of the Securities and Futures Ordinance provides for a statutory avenue to seek compensation for misrepresentation concerning MPF products. Moreover, this amendment involves proposals concerning legal proceedings, which will have a significant impact on the entire regulatory regime and the intermediaries. Therefore, to put forward such proposals in the absence of any consultation or any detailed discussion in the Bills Committee is a premature move.

Regarding the proposal of Mr WONG Sing-chi to add clause 34ZZ(2) to require the MPFA to give the complainant a copy of the notice of its preliminary view on disciplinary sanction of a complaint, the DAB thinks that the relevant investigation results are just a preliminary view which is premature, and the relevant view on disciplinary sanction may be altered after the regulated person has made representations or provided additional evidence. Therefore, disclosing the MPFA's preliminary view to the complainant before a final disciplinary decision is made is unfair to the regulated person. Furthermore, if the complainant negotiates compensation settlement with the regulated person based on the preliminary view on disciplinary sanction, it is not necessarily advantageous to the complainant because the regulated person may have to bear a greater responsibility in the investigation results for a final sanction than in the preliminary view on disciplinary sanction. Therefore, the DAB thinks that it is more prudent to disclose details of the investigation results and disciplinary sanctions to the complainant after the completion of the entire disciplinary proceeding. Moreover, the MPFA has undertaken to finish processing its preliminary view and official decision within 10 to 12 weeks. I even have another consideration, and that is, as disclosing the preliminary view to the complainant does not involve any legal obligation of confidentiality, the leak in information will result in something like a public trial of the person concerned, which is extremely unfair to industry practitioners.

MPF "Semi-portability" marks a significant milestone for the MPF System since its implementation in 2000. It will allow over 2.5 million employees of Hong Kong to choose MPF trustees with greater flexibility. Not only will it

benefit members of the public in their choice of investment portfolio suitable for them, it will also help further reduce MPF fees to benefit scheme members. The DAB hopes that after the implementation of MPF "Semi-portability" for some time, the authorities will conduct a review as soon as possible and introduce MPF "Full-portability" when measures in various areas are ready.

Thank you, President. I so submit.

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): I report that some Members are not here. And, a quorum is lacking now.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber).

PRESIDENT (in Cantonese): Mr KAM Nai-wai, you may speak now.

MR KAM NAI-WAI (in Cantonese): President, we call this Bill under scrutiny today "MPF Semi-portability" in short. Since the implementation of the Mandatory Provident Fund (MPF) System in Hong Kong in 2000, employees and employers of Hong Kong have been required to respectively invest contributions equivalent to 5% of their salaries in the funds under MPF schemes. Despite the totally same amount contributions made by employers and employees, only employers enjoy the right to choose to appoint the service of MPF trustee companies now.

The purpose of MPF is to provide protection for post-retirement life. Wage earners are the group of people who are affected mainly. However,

regrettably, wage earners did not have the right of choice in appointing MPF trustee companies in the past while the investment performance, good or bad, of these companies directly affects the protection for employees' post-retirement life in future. As we all know, whether or not the amount invested by employees experiences growth and how the MPF trustee company performs have the greatest impact on employees' life, especially their post-retirement life. On the contrary, the impact of MPF services and investment performance on employers can be said to be minimal.

For this reason, the right to choose MPF trustee companies should long be vested in the hands of employees. However, at present, employers have the full authority to choose MPF trustee companies for appointment. Members of the public have found this system extremely unfair right from the beginning. Therefore, many of them may find MPF trustee companies and even the term "MPF" hard to accept.

In fact, since the implementation of the MPF System, the public have all along shown dissatisfaction with the exorbitant management fees. The investment performance is, no doubt, not up to expectations, and the management fee arrangement causes public dissatisfaction as well. This also has something to do with employees having no right to choose MPF trustee companies. According to government information, the average rate of MPF scheme management fees was 2.1% in 2007 and 1.85% in 2010. The latest figure is around 1.74% at present. It does show a downward trend in terms of figures. However, we can learn from a recent television episode of News Magazine that the management fee of funds under the retirement protection scheme of other countries is lower than that in Hong Kong. For example, the management fee rate is only 1.41% in Singapore, 1.21% in Australia and 1.19% in the United Kingdom.

Prof Francis LUI, a well-known academic in economics in Hong Kong, has recently mentioned in an article that the management fee rate of the retirement pension scheme in the United States is generally below 0.6%, which is several times lower than our present rate of 1.74%. The rate of some schemes is even as low as 0.1% only. Prof LUI has also pointed out in the article that the exorbitant management fee of Hong Kong MPF schemes is mainly due to employees' lack of the right of choice. It is believed that if the fund performance is in direct proportion to the management fee, members of the public may still find it acceptable.

However, Prof LUI has also pointed out in his analysis that the exorbitant management fee of MPF schemes does not mean the performance of such funds is any different from some other funds that charge lower management fees. Higher management fees do not mean bigger returns; and lower management fees do not necessarily mean smaller returns. Insofar as the present situation of Hong Kong is concerned, MPF trustee companies absolutely can charge an exorbitant fee because employees practically have no right of choice. These companies also do not have to worry about investors switching to the other MPF trustee companies.

I raised an oral question in the Legislative Council in March last year asking the Government about the supervision of the management fee of MPF schemes. The Government replied that it took market forces to drive down such fees. Put simply, the Government does not intend to set a limit on the level of management fees of MPF schemes. And, to increase market competition is the only way to drive down such fees. I think one of the major ways to increase market competition is to introduce the Employee Choice Arrangement (ECA) to allow investors, that is, employees, to have a free choice in the appointment of MPF trustee companies. And, this free choice will force MPF trustee companies to lower their management fees. Lowered management fees may be an outcome we hope to achieve through the introduction of ECA. However, we still have to wait and see if it can be achieved.

In order to attract local wage earners to join and use their investment plans, MPF intermediaries are expected to actively promote their different MPF schemes. Recently, various funds managed by MPF trustee companies have also been presented in a number of television programmes and publicity pamphlets.

Therefore, the Democratic Party supports this Bill because after the implementation of "MPF Semi-portability", this law will become a very important means to regulate intermediaries to ensure that correct sales practices are employed. In fact, ECA should have been implemented as early as in 2010. However, it is unknown why the Government suddenly found it necessary to regulate the sales practices of intermediaries just before the introduction of ECA back then. As the Government was, all of a sudden, like waking up from a dream, the introduction of "MPF Semi-portability" had to be delayed. Today, this Bill has the chance of passing Second and Third Readings.

However, we do have concerns about certain sales practices of MPF intermediaries. It is because information shows that as at end of October 2011, 2.5 million employees and self-employed persons had joined MPF schemes and opened accounts, and the number of intermediaries was more than 30 000. One may well imagine that once "Semi-portability" is implemented, the MPF market will become very huge. Information on the MPF System website shows that in December 2009, the net asset value of MPF was over $300 million. It is believed that such a big piece of fat pork will definitely attract the greedy eyes of intermediaries in the hope of racing to seize a share of the market.

However, as to the provision of MPF information, I have here a copy of the information on my own MPF account. Although a Legislative Council Member does not have an MPF account, I have one opened previously. From the sales information provided for this MPF account, I practically could not see clearly the relevant details because I could not see clearly the words even with the help of a magnifying glass. I do not know whether it is because I have presbyopia or some other problems. In the end, I had to have such information enlarged before I could actually see its actual contents. The first sentence is an important note. It reads, "You should consider your own risk tolerance level and financial circumstances before making any investment choices. When, in your selection of funds, you are in doubt as to whether a certain fund is suitable for you, you should seek financial and/or professional advice and choose the fund most suitable for you taking into account your circumstances." After reading it, I found it very familiar to the ear. I can later pass the information to Prof K C CHAN for reference. I had to have such information enlarged before I could see the words in the paragraph just quoted by me. And, I found it familiar to the ear. It has turned out that in the Lehman Brothers incident, similar wordings were listed in the sales information of all the Lehman Brothers products.

I wonder if Members have read the report on the Lehman Brothers incident just released by the Legislative Council in end of May or early June. In the report, the Secretary is one of the government officials against whom the Legislative Council has expressed disappointment. There are two paragraphs in the report that read, "Some investors of Minibonds and Lehman Brothers equity-linked notes who had given evidence were retirees or housewives with little or no formal education. They had not invested in equity-linked notes or credit-linked notes before. What they were looking for was safe and principal-protected investments that could bring them a stable level of interest

income which was more favourable than the prevailing interest rates on time deposits. These investors indicated that they could neither understand nor accept investment risks." Regrettably, they purchased the related Lehman Brothers products all the same. I have only quoted the experience of some investors stated in the report.

Therefore, we are gravely concerned about these products when they are offered for sale in future. I have also noted in the MPF fund information mentioned above that cannot be seen clearly even with the help of a magnifying glass products such as those called "stabilization fund" or "retirement fund". What is the performance of such funds? I will not disclose the name of the MPF trustee company concerned here and now. But, a scheme called "retirement fund" offered by this company has sustained a loss of 14% since its launch, which, I think, it was from around the end of last year to the middle of this year. And, this scheme is even called "retirement fund". Of course, there are some high-risk products such as those called "equity fund" which have sustained a loss of 31% since launch. In other words, an investment of $100 has sustained a loss of $31. And, in the case of "retirement fund", an investment of every $100 has sustained a loss of $14.

Therefore, how fund investments can suit the needs of investors, that is, wage earners heavily rely on the way intermediaries conduct sales activities. Regarding the regulation of intermediaries, this Bill, of course, is not without merits. I have recently seen a thick pile of Guidelines on Conduct Requirements for Registered Intermediaries issued by the authorities. It is set out in the Guidelines various conduct requirements, including to know the client, to conduct suitable risk assessment, to note whether there is a lack of necessary information, what to do in the case of risk mismatch, and so on.

Moreover, we have also requested the Mandatory Provident Fund Schemes Authority (MPFA) to provide more training for intermediaries. For example, the MPFA has advised that when intermediaries apply for relevant courses, their records of continued enrolment on professional core courses will be verified and their records of attendance be checked. Therefore, intermediaries cannot choose to be idle in their studies because the MPFA will conduct random checks. This is also the protection provided by the MPFA in the area of training. However, the Democratic Party thinks that this is still not enough. So, we will propose several amendments to the Bill because experience from the Lehman Brothers incident has shown that irregular sales activities of intermediaries can cause very

significant damage to investors. As MPF is a kind of retirement protection, the misfortune of the Lehman Brothers incident absolutely cannot fall on MPF investors.

The Bill, of course, provides for the imposition of sanctions on intermediaries, which include reprimand, fines and revocation of intermediary licence. However, like other financial regulators, the MPFA only imposes sanctions on offenders. As to the losses sustained by affected investors, the MPFA does not have the power and responsibility to deal with them. Affected investors can only hope that intermediaries are willing to negotiate a settlement, or appoint lawyers to claim due amount of compensation by legal means. In fact, even losses are caused, not all intermediaries are willing to negotiate a settlement. And, the aggrieved party, that is, investors we call victims, may not have sufficient resources to lodge complaints in court. Therefore, it is impossible for many affected investors to claim due compensations.

Apart from measures to regulate and sanction intermediaries, and the failure of some victims to get compensation mentioned above, we have also raised the issue of "two regulators for one industry". However, we have greater concern this time because it is now not only having "two regulators for one industry" but even "four regulators for one industry". The MPFA, the Hong Kong Monetary Authority, the Office of the Commissioner of Insurance and the Securities and Futures Commission will be responsible for the regulation of intermediaries, thus leading to "four regulators for one industry". This has also given us great cause for concern.

Therefore, regarding this Bill, Mr WONG Sing-chi and I in the Democratic Party will propose three amendments concerning the protection of the rights and interests of wage earners. We will elaborate on the details of these amendments when we come to their examination later on. The Democratic Party will support this Bill. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, I have to declare first of all that I am a member of the management board of the Mandatory Provident Fund Schemes Authority (MPFA). However, I have no personal interests in the MPFA.

In recent years, some voices in society have all along demanded that employees be allowed to decide their Mandatory Provident Fund (MPF) investment arrangement (commonly known as "MPF Portability"). I understand this demand. After all, MPF is employees' own contributions, which will be returned to them in the future. Therefore, employees should have a greater say in the management of their own fund. However, this is only one side of the coin. The other side of the coin is that these employees' contributions aim to provide for their future retirement life. If emphasis is laid only on the right to "portability" to the neglect of the responsibility to build retirement security, it may ultimately put the operation of the whole MPF System at risk. Therefore, I support improving the MPF investment framework before implementing "MPF Portability".

The Bill under scrutiny today is the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill (the Bill). Not long ago, the report of the Legislative Council Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products was released. Many details in the report are worthy reference in the scrutiny of the Bill, and many viewpoints presented in the report strike a chord with me, and in a way, reflect my worries about "MPF Portability". For example, in paragraph 7.27 of the report, it says, (I quote) "The Subcommittee has no doubt that the Administration and regulators have a vital responsibility in investor protection and must take effective measures to prevent unfair treatment of investors. However, the Subcommittee must also point out that one should not expect the Administration and the regulators to provide a risk-free investment environment for investors. Investors must also exercise a reasonable degree of vigilance and due diligence." (unquote) Although "MPF Portability" enables employees to enjoy autonomy in the investment of their contributions, a large number of greenhorns in financial investment among them thus have to decide on their own investment portfolio and bear the risks in a tempting and stormy investment market. Therefore, so far, although I do not object to the principle of "employees having the say in their MPF investment", I still have a lot of worries about "MPF Portability".

Regarding the regulatory approach for MPF investment, the Bill provides for the adoption of the institution-based regulatory approach, that is, the MPFA will be the authority to administer the registration of MPF intermediaries, issue guidelines on compliance with statutory requirements applicable to registered MPF intermediaries, and impose disciplinary sanctions, while the Hong Kong

Monetary Authority (HKMA), the Insurance Authority (IA) and the Securities and Futures Commission (SFC) will be responsible for front-line supervision and investigation. I understand that this is based on the current financial management arrangement. The Government has also explained at the meetings of the Bills Committee that MPF intermediary activities are just incidental to the main lines of business of most MPF intermediaries, who are subject to the supervision of the respective regulators (such as the HKMA, IA and SFC) for their main lines of business. At the meetings of the Bills Committee, I have expressed concern about having multiple authorities regulating MPF intermediaries. To effectively regulate "MPF Portability" and ensure its smooth operation, the various regulators must have close co-operation and clear delineation of responsibilities among them. However, the Government does not have a satisfactory track record in handling similar situations.

One of the keys to the healthy operation of "MPF Portability" is the check on the rating of various MPF financial products. In paragraph 5.21 in the report of the Subcommittee, it says, (I quote) "Inconsistency in risk rating by different banks of the same products would disadvantage investors …… the Subcommittee is of the view that the regulators should consider introducing some form of benchmarking to achieve broad consistency." (unquote) President, we cannot see at this stage any measures taken by the regulators to ensure broad consistency in risk rating of MPF financial products by different banks.

In the Draft Guidelines on Conduct Requirements for Registered Intermediaries submitted to the Bills Committee by the Government, it is stated in paragraph III.27 on risk assessment that "match the client's personal profile with the risk profiles of the constituent funds to select a constituent fund/constituent funds suitable for the client; and explain to the client why a particular constituent fund/constituent funds are suitable for the client." However, it is specified in paragraph III.33 on risk mismatch that if a client insists on choosing some risk mismatch investment plans, the intermediary should explain to the client and keep the relevant records. The abovementioned is the safeguards for "MPF Portability". However, whether these safeguards can produce appropriate effects hinges on whether broad consistency in risk rating of MPF financial products can be achieved to avoid the recurrence of the inappropriate ratings of financial products in the Lehman Brothers incident. If the financial products for "MPF Portability" have the similar problem of risk rating discrepancy of the

Lehman Brothers minibonds, the safeguards in the Guidelines for risk match and risk mismatch will cease to be effective.

In handling complaints and compensation, the Bill encourages intermediaries and complainants to negotiate a settlement in misconduct cases. I, in principle, agree to the arrangement of settlement. However, in the process, intermediaries and complainants should receive the same information. Only in this way can a settlement be considered fair and just. However, the Bill proposed by the Government states that it is inappropriate for the MPFA to disclose its preliminary view on a disciplinary order against a certain regulated person to persons (including a relevant complainant) other than the regulated person concerned. In the process of negotiating a settlement, such a practice is obviously disadvantageous to the complainant. Therefore, I will support the amendment proposed by Mr WONG Sing-chi to stipulate that the MPFA must give a copy of the notice in relation to its preliminary view on the complaint to the complainant.

It is also pointed out in paragraph 8.8 in the report of the Subcommittee that (I quote) "Currently, neither the Securities and Futures Commission nor the Monetary Authority has the power to order a registered institution to compensate an investor, even if there are adverse findings against the registered institution …… The Subcommittee considers that the regulator(s) should be empowered to order the payment of compensation." (unquote) Mr KAM Nai-wai has proposed an amendment for the purpose of incorporating this proposal into the Bill. In principle, I agree to this direction of development. However, at this stage, I also accept the explanation of the Government, which has cited examples of major financial regulators of other countries to illustrate the absence of relevant regulations overseas. As the amendment will cause a profound impact on the financial regulatory regime of Hong Kong, I will not insist on the implementation of the proposal in the amendment for the time being. We can still deliberate on the implementation or otherwise of this proposal after the introduction of "MPF Portability".

President, lastly, I cannot but bring up one point. I have to say a few words to do justice to the front-line employees in the financial industry. I do not believe that employees in the financial industry are all money-worshippers who set their eyes on nothing but money. If we wish to see the healthy development of the financial industry of Hong Kong and fundamental protection for the rights

and interests of investors, we should tackle a problem at the source, and that is, do not put too much work pressure on front-line employees in the financial industry. I believe the reasonableness of the sales quota set by financial institutions for employees is in direct proportion to the level of sales integrity of employees. I do not wish to see that employees working in financial institutions have to bear heavy sales pressure, particularly when MPF-related financial products will be launched onto the market in future. I think the regulators should pay serious attention to this matter.

I so submit.

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): President, it will be more fun if there are more Members in the Chamber.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber).

PRESIDENT (in Cantonese): Mr IP Wai-ming, you may speak now.

MR IP WAI-MING (in Cantonese): President, before I make my speech, I have to declare that I am a member of the Mandatory Provident Fund Schemes Advisory Committee.

President, the Mandatory Provident Fund (MPF) concerns the retirement life of a large number of employees. So, the Federation of Trade Unions (FTU) has all along attached great importance to its implementation and its impact on the public. Unfortunately, investigations and concrete evidence in various areas

have found that there are still loopholes in the MPF System. On the 10th anniversary of the implementation of the System, the FTU set out its seven sins and called on the Government to conduct a comprehensive review.

At present, one of the problems of the MPF scheme is that employees do not have the right to choose MPF trustees. No matter how high the management fees are, we can do nothing but be forced to choose from funds offered by the trustee. Pinpointing this shortcoming, the FTU has called on the authorities to implement MPF "Full-portability" to give employees the right to transfer their contributions to self-selected MPF schemes, so as to enhance competition and drive down the rate of MPF management fees. It is because information has shown that currently, the average rate of MPF management fees in Hong Kong is 1.74% where the highest is a surprising 4.62% and the lowest is 0.09% which is still higher than the example of the United States cited by a colleague just now.

It makes us quite disappointed that the final decision of the authorities is to implement "Semi-portability". However, on the whole, this is still conducive to the right of choice of employees. Therefore, the FTU will not object to it. However, before the new arrangement is put in place, we think that it is necessary to establish a statutory regulatory regime for MPF intermediaries. The Government should regulate these MPF intermediaries because the experience we gained in the Lehman Brothers incident has told us that, many a time, irregular sales cause huge damage to investors. In particular, when MPF involves the retirement pension of a large number of employees, we think the Government should be prudent in this regard. Moreover, we are also pleased that the Government has heeded our view and submitted the Bill to provide for the regulation of MPF intermediaries. However, our demand for "Full-portability" remains unchanged. We also hope that the authorities will make it their objective and get prepared for the implementation of MPF "Full-portability".

In the course of scrutiny this time around, we have reflected some concerns and opinions. First, the Bill has provided for the continued adoption of the institution-based approach for the regulatory regime. The Monetary Provident Fund Schemes Authority (MPFA) will be the authority to administer the registration of MPF intermediaries, issue guidelines on compliance with statutory requirements applicable to registered MPF intermediaries, and impose disciplinary sanctions while the Hong Kong Monetary Authority (HKMA), the Office of the Commissioner of Insurance and the Securities and Futures

Commission (SFC) will be the front-line regulators (FRs) responsible for the supervision and investigation of registered MPF intermediaries whose core business is in banking, insurance and securities respectively.

This is precisely what many colleagues have commented on just now. The approach of "two regulators for one industry" in the Lehman Brothers incident has turned into the present approach of at least "four regulators for one industry". Will the involvement of a number of institutions give rise to inconsistencies in supervision and enforcement standards in actual operation? We often say that three different people have three different ways of doing things. In the end, each does things in his own way and only chaos will be resulted. Even if chaos is not resulted but, as the saying goes, "Everybody's business is nobody's business."

In scrutinizing the Bill, I have also expressed concern about this in the Bills Committee. In particular, how are the responsibilities between MPFA and the three frontline regulators delineated? What measures will be taken to ensure regulatory consistency and a level playing field? At the same time, how will the one-stop approach be adopted for handling complaints against misconduct of intermediaries? It is because in the Lehman Brothers incident, we saw many complainants going around to lodge complaints with different regulators such as the SFC, HKMA and other institutions, which made them both physically and mentally exhausted. Therefore, we think the Government should set up a one-stop organ for complainants in this regard. And, what is the arrangement when the MPFA and the FRs are divided on the investigation results? These are the doubts we have raised in the course of scrutiny.

The Administration has promised, at the scrutiny stage, that although other institutions are also responsible for investigation, the actual overall enforcement still rests in the hands of the MPFA. We hope that the authorities will keep this promise made at the scrutiny stage to ensure regulatory consistency, and effectively implement the various corresponding measures and new provisions stipulated in the Bill to enhance effectiveness and efficiency in communication among institutions. We hope that the authorities will seriously enforce the relevant details and pay close attention to the communication and co-operation among institutions to facilitate the smooth implementation of the Bill. In particular, in the Bills Committee, we have urged the Government to assess and review the practice of "multiple regulators for one industry" or "four regulators

for one industry" after its implementation for some time, and subsequently amend the legislation on the basis of the assessment and review. This will provide better protection for the interests of investors. I hope that the authorities can give us a positive response in this regard.

President, regarding the implementation of MPF "Full-portability", we know that one of the major, and also the biggest, hurdles is the offsetting mechanism under the current MPF System, whereby the MPF contributions of employers can be used to offset severance and long service payments. We think that this is the biggest obstacle that totally restricts the implementation of MPF "Full-portability".

The FTU has always insisted on abolishing this offsetting mechanism between MPF and severance payment. From the introduction of the legislation to its implementation for 11 years now, we have all along considered that this is the right thing to do. This is also the crucial step that enables employees to manage the pensions themselves. Therefore, we hope that the Government will review abolishing the offsetting mechanism between MPF and severance and long service payments to lay a better foundation for MPF "Full-portability".

Besides, we hope that the implementation of "Semi-portability" this time can cause administrative fees to drop. However, President, whether our good wish can finally be realized, I believe, has to await review after the coming into force of the legislation and the implementation of "Semi-portability". However, if MPF administrative fees do not see a significant drop after the implementation of "Semi-portability", and such administrative fees still nibble away the retirement benefits of working persons, we hope that the Government will take some positive measures to drive down administrative fees. Some people have recently suggested whether the HKMA can offer funds with more stable returns for the choice of employees, so as to boost competition by offering more choices in a bid to force administrative fees to come down. We think this option merits consideration. We also hope that the Government will conduct more studies and consult members of the public in this regard.

Moreover, in the implementation of MPF "Semi-portability", another prominent issue concerns preserved accounts. At present, whenever an employee changes to another company, basically, even the new company patronizes the same trustee, he may need to open an extra preserved account. As at end of May, there were 4 035 000 preserved accounts. MPFA information

has shown that the average number of account per person was 1.5. President, this is just the average number. We have come across some cases where one person has four to five preserved accounts, especially when he changes jobs more often.

However, President, when employees hold too many preserved accounts, they will not only find it difficult to manage their MPF, they are also put in a situation that makes them unable to achieve the effect of centralized deployment of wealth and the wealth effect. Therefore, we hope that the MPFA will consider ways to allow employees to merge their preserved accounts into one central account. Or, actually, is it time to start studying the feasibility of "one man, one account"? By "one man, one account", it means that an MPF account should follow the person and not *vice versa*. Not only can this facilitate employees in managing their own MPF, it can also maximize the wealth centralization effect of MPF. We hope that the Government will consider this proposal in its future review.

President, the FTU also supports the respective amendments proposed by Mr KAM Nai-wai and Mr WONG Sing-chi. In fact, in the Lehman Brothers incident, we saw many victims getting no compensation at all after suffering losses. In theory, victims can claim such losses in court. However, many MPF contributors are wage earners. They practically have not much savings and generally need to rely on the MPF benefits. When they suffer losses, are they able to appoint some legal representatives to represent them in court to claim compensation? Very often, even before making a claim for compensation, the scenario described in the popular saying of "one suffers torture with a plank for thirty strokes before seeing the official" occurs. Therefore, we think it is appropriate to empower the MPFA to order intermediaries with misconduct to compensate investors. In this way, the expenses of victims in lodging a complaint can also be reduced. Therefore, we will support Mr KAM Nai-wai's amendment.

The Government has advised that this proposal somehow departs from the existing system. However, we think that we can break through the system. And, we should not always follow the footsteps of other people. Instead, we should explore new paths.

We also support Mr WONG Sing-chi's amendment. It is because we have learnt from the experience in the Lehman Brothers incident that the right to equal

information is crucial to reaching a settlement between victims and institutions involved in a complaint of misconduct. Therefore, we support Mr WONG Sing-chi's amendment. The FTU will vote for the two amendments. In the long run, we hope that the Government will place importance on retirement protection.

MPF is a stepping stone on the way to an integrated retirement protection system. We hope that the Government will grasp the golden opportunity of the next five years to address squarely the ageing problem and resolve the issue of retirement protection.

President, I so submit.

DR PAN PEY-CHYOU (in Cantonese): President, many concepts in society will change with the times.

In the days of our older generation, they always mentioned the idea of "raising children for old age". Like nowadays, wage earners of yesteryear also had to work hard for a living. However, people of that generation were keen on starting a family after marriage. Each couple would generally raise four to six children. After the children had grown up, though they might not have a hefty income, they could still provide for their parents by pooling their money together.

When it comes to my generation, it was exactly when the Family Planning Association of Hong Kong launched the "Two is enough" campaign. Therefore, I also answered the Association's call. However, when people have only two children, how can they expect their children to provide for them in the future? Moreover, people now have an increasingly long life expectancy.

Let us take a look at the younger generation now. Several years ago, I moved to the very heart of Kowloon to facilitate my parliamentary work. When I went out in the morning, I saw many young people pushing baby trolleys in the streets. I noticed the trolleys were quite small. I went near to take a look and found a furry puppy lying inside. This shows that people of this generation have given up the idea of raising children altogether and treat puppies as their children instead. Some day when they are old, how can they expect the puppy to provide for them? Of course, I am only joking.

Therefore, basically, the notion of "raising children for old age" is no longer on people's lips now. In fact, the average number of babies born to each woman of Hong Kong is only 0.91 while people have an increasingly long life expectancy. Such a phenomenon does make us worried.

The Census data of last year show that the median age of the Hong Kong population has sharply risen from 36.7 years in 2001 to 41.7 years in 2011, which is an alarming rate. And, it is anticipated that the Hong Kong population will experience rapid ageing in the next few years. Moreover, according to the prediction of a university academic, the workforce of Hong Kong aged 15 to 64 years will gradually contract from this year onwards. By 2039, the active workforce will drop to around 60% of the present level. It is impossible for us to evade the problem of rapid ageing of the Hong Kong population. Therefore, we have to think of precautionary measures to tackle problems brought by a rapidly increased elderly population. This is also a significant issue the SAR Government and the entire society must address.

However, the policy on retirement protection of the SAR Government remains far from perfect. Over the years, the Government has stuck to outdated ideas, insisting on the adoption of the so-called "three-legged stool", namely, Comprehensive Social Security Allowance (CSSA), the Mandatory Provident Fund (MPF) and personal savings for the financial arrangement of people's retirement life. This "three-legged stool" comprised of CSSA, MPF and personal savings looks safe to sit on. However, when people actually do so, it will fall apart at any time, making them fall flat on their back. Why?

First, at present, the amount of MPF is actually very small. Coupled with unfavourable investment returns, people practically cannot rely solely on MPF for their old age. Second, if wage earners have some savings, they also have to think of ways of investment, such as purchasing some investment products. From the experience of the past few years, we can see that they may suffer losses that can eat up all their savings. If they put their money in banks to earn interest, with the prevailing low interest and high inflation rates, their savings will also be nibbled away and dried up by inflation over several years. In the end, they will have nothing all the same.

The most unacceptable aspect of all is that this "three-legged stool" has totally neglected housewives who have to give up work in order to stay home to

take care of family members and children. They have no retirement benefits at all. As a result, housewives are deprived of financial independence even after their children have grown up with families of their own and their husbands have retired. The present so-called "three-legged stool" is extremely unfair to housewives. Therefore, I find this "three-legged stool" really unacceptable.

Precisely for this reason, we have always asked the authorities to look squarely at and perfect the retirement protection system. We badly need this system, and our ageing population tells us that this is a matter of great urgency. We have also called on the SAR Government to conduct a comprehensive review of the MPF scheme, including the point made by Mr IP Wai-ming earlier, that is, the implementation of "Full-portability" and abolition of the unfavourable offsetting mechanism for long service and severance payments, so as to make MPF a really fair system to wage earners because the money is earned by wage earners after all. In the long run, a sustainable and integrated retirement protection scheme should be put in place in Hong Kong to benefit all members of the public, no matter whether they go out to work or stay home to look after family members and do housework, such that they can enjoy old age protection.

Today, the Government only agrees to optimizing MPF but totally disregards our demands mentioned earlier. Therefore, to the general wage earners, the Amendment Bill this time only makes slight improvement to the fragmentary MPF, achieving little satisfactory effect, which is still most unfair to wage earners. I have to express my disappointment here.

The biggest wish of wage earners is to pocket all the contributions made by employers and not to have such contributions offset against long service or severance payments when they leave the company after years of service or when they are dismissed upon the closing down of the company. This is really unfair. It is because MPF contributions — no matter whether they are contributions of employers or employees — are all earned by wage earners. They are their own money. Why should they use the money earned by themselves to offset against their own long service and severance payments? This is totally unreasonable. Moreover, most importantly, only by abolishing the offsetting mechanism can MPF "Full-portability" be really implemented. No matter whether they are contributions of employers or employees, wage earners can enjoy full autonomy to decide to place them with which trustee company. Only this is the reform wage earners wish to see.

However, once this Amendment Bill is passed, it implies that "Semi-portability" can be implemented, allowing the general employees to have the right to choose their MPF trustees, and helps optimize the regulatory regime for MPF intermediaries. On the whole, this is a step in the right direction. Therefore, the FTU will not oppose it.

In recent years, the number of financial product-related cases of complaint and request for assistance has been on the increase. The Lehman Brothers incident is a typical example which has fully exposed the authorities' loophole-filled regulation of financial products. As a result, when facing "fund managers", ordinary people are put in an extremely unequal position, extremely vulnerable to the deception tricks of financial salespersons with evil intent. After the implementation of "Semi-portability", it is believed that MPF intermediaries will definitely use every unexpected means to lure wage earners to transfer their contributions, so as to get more business. Such intense competition should originally provide incentive to lower MPF service charges, possibly benefitting wage earners. However, on the other hand, enthusiastic sales activities of intermediaries will inevitably offer an opportunity for some black sheep in the industry to take advantage of the circumstances and deceive wage earners with tricks.

How will the various FRs face the challenge brought by the new policy to prevent intermediaries from making use of the grey area of the legislation to mislead contributors or confuse the risk level of the schemes? How will these problems be tackled? On the one hand, I think the SAR Government should effectively enforce the regulatory measures to ensure consistencies in the regulatory standard applied by the FRs such as the Hong Kong Monetary Authority, the Office of the Commissioner of Insurance and the Securities and Futures Commission, and on the other, the MPFA should, apart from carrying out its due functions and duties, step up its effort in publicity and education to enable the public to understand clearly the details of the new measures and their own rights and interests.

President, the elderly have spent most of their lives making contribution to Hong Kong society. Their demand is actually quite simple. They just want to enjoy their twilight years peacefully free of "worries about fuel and food". In such an affluent society as Hong Kong, this is a most humble and reasonable

demand. The implementation of "Semi-portability" is just a small step to improve MPF. There is still a lot of room for improvement. Moreover, the formulation of a sustainable, fair and reasonable retirement protection system for an ageing population actually remains an urgent issue impossible to evade.

With these remarks, I support the Amendment Bill.

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): President, it will be better if more Members are present. I request a headcount. Thank you.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber).

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, you may speak now.

MR LEE CHEUK-YAN (in Cantonese): President, with respect to today's subject, as a matter of fact, Secretary Prof K C CHAN has heard our views on the Mandatory Provident Fund (MPF) scheme many times. But we really have no choice. Sometimes we are really miserable. We are forced to be a "human tape-recorder". We often criticize the Government for being a "human tape-recorder", but in fact, the most miserable thing is that we have been "obligated" to be a "human tape-recorder". This is even more miserable than our criticism of the Government for being a "human tape-recorder". The Government takes the role of a "human tape-recorder" because it has to defend, while we take the role of a "human tape-recorder" because we have all along hoped that the Government will genuinely introduce reforms.

We can see that with regard to the subject of MPF, how many years have gone by since 2000? It has been 12 years. What we said 12 years ago was the same as what we are saying today. Twelve years ago, the Government was also talking about the three pillars, that is, private savings, Comprehensive Social Security Assistance (CSSA), and the MPF scheme. Private savings have nothing to do with the Government. If people have the ability to make savings, there will be no problems at all. They will not have to rely on the Government. As for CSSA and the "fruit grant", the amount of the "fruit grant" is only about $1,000 or so. Even if the amount will be increased to $2,000 or so in the future, it will not be the genuine solution to the problem of elderly in poverty. With regard to CSSA, we have all along been arguing why elders living with family members cannot apply for CSSA as independent individuals. These are the problems we have been discussing for many years.

The pillar of MPF is the subject under discussion today. Basically the MPF cannot regarded as a pillar at all. The 5% contribution lags far behind the 30% contribution required by the system in Singapore. Even if the amount of 5% contribution from the employee in addition to the 5% contribution from the employer is saved up to 40 years, it is still a very limited figure. Not to mention there are still many loopholes in the system. Regarding these loopholes, we have to act like a "human tape-recorder" again and repeat them to the Secretary. The Secretary may continue to serve in the next-term Government starting from 1 July. Thus, after I have spoken, let us see if there are any changes after 1 July.

President, even though we have been discussing it for many years, the problem of the administration fees of MPF remains unresolved. Is the proposal this time around — semi-portability — really able to resolve the problem of excessively high administration fees? We still have great doubts about it, as this is only an implementation of semi-portability, not full portability, just semi-portability. Since this is the case, how will this semi-portability arrangement operate?

If the regulatory regime of intermediaries is passed by us today, the intermediaries will be regulated in the future. The objective of the entire Bill today is to regulate the intermediaries. Of course, we will not object to regulating the intermediaries. We also hold that stringent regulation is necessary

so that mis-selling of products by intermediaries is not allowed. We certainly support this. However, though we have done all we can, and waited for over a year, what eventually have we achieved? It is just the semi-portability arrangement. From 1 November, an employee will be able to transfer the amount of his own contribution to a MPF trustee of his own choice. By that time, it is possible that an employer may choose one trustee while his employee may choose another trustee.

There were times when I told workers they would be able to have choice in the future. They responded by asking whether this would be more troublesome. According to them, as the employer will have one account while they will have another account, they will not know whether to choose or not. Of course, it will take some education of matters in relation to this. But the question is, there is some truth in what they say, because we are only implementing semi-portability. This is just semi-portability. Further discussions will still be related to semi-portability, not full portability. The other half will still be controlled by the employer. We have discussed this for so long, and waited for a year for this Bill. Eventually it has been decided that from 1 November, an employee can choose once a year. An employee will have to make his choice of whether he will transfer his account to another trustee during the month of November. If he does not make his choice, it will mean that he will not transfer his account.

What is the purpose of this semi-portability arrangement? It has been our hope that the semi-portability arrangement will lower the administration fees. But the question is whether this is feasible. As a matter of fact, the administration fees have all along taken much advantage of the wage earners of Hong Kong. The annual MPF amount is about $36 billion, and now, the accumulated amount is about $300-odd billion. From the perspective of management, when the MPF amount becomes increasingly larger, reaching an amount of $300-odd billion, it is unjustifiable for the administration fees to be maintained permanently at about 2% — the rate may have come down to 1.7% or so, 1.8%. However, be it 2% or 1.8%, the reduction is still minimal, but the asset expansion has reached $700-odd billion. Let us think for a moment. They skimmed off 2% when the amount reached $30 billion; when the amount reaches $300-odd billion, they still skim off 2%. They have completely ignored economy of scale.

No matter how huge the amount being managed is, the administration fees are used to do the same thing. Given such a huge amount of asset, it is groundless that the administration fees should all along be maintained at 2%. It has been calculated that when we retire, the charge of this 2% administration fees is equivalent to employees getting 60% of the MPF amount, while 40% of the amount would have gone to administration fees. You can imagine how huge the sum is. We have sweated and toiled for the hard-earned savings for 40 years, but we have to give 40% to the trustees. Small wonder that the people are very angry. They have said that basically they will suffer a loss before an uncertain gain. In short, their money is taken away.

However, is the semi-portability arrangement useful at all? How much of the administration fees will semi-portability arrangement be able to reduce? Although it is said to be a mechanism of free choice, it is only a quasi-free-choice, which may be even more troublesome for employees. What is the attraction of this arrangement which requires them to choose a new trustee or change to another trustee? I have no idea by how much administration fees will be reduced because of this, but if the 19 trustees collude with each other — of course the competition law is in place now — but will they collude secretly so that there will not be a large reduction of fees, which results in the public being "slaughtered" all the same? With only 19 trustees, there is not much choice for the public. But the 19 trustees are able to determine everything. Thus, the effect of this semi-portability arrangement introduced now is limited.

We often ask why direct portability cannot be implemented. The Government's reply is very simple. If direct portability is implemented, the employers will oppose it. Members of the public may ask what it has to do with the employers. There is one thing very undesirable about MPF, which is also another flaw of the system. We have been discussing it for "N years" to the extent that we are reiterating it time and again, and that is, the offsetting arrangement of the MPF contributions against severance and long service payments. Some employers can take advantage of the workers to this level.

When the MPF System was not yet in place, severance and long service payments were provided to workers. After the implementation of MPF, workers still receive their severance and long service payments; however, they no longer have their MPF payments. This is because employers have used their

contributions to offset severance and long service payments. What is the difference between the present and the previous arrangement? Workers are saving up their own 5% contributions, being a 5% deduction from their salaries. Basically the 5% contribution made by employers is not catered for the benefit of workers. It only facilitates the savings of employers for the severance payments of workers. So what is the point of it?

I have raised the question since 1995 …… this question was not raised in 2000. Right from the first day in 1995 when I opposed MPF, I have raised this question. Why do I oppose MPF? One of the reasons is the employers are able to use their contributions to offset the severance payments. In doing so, they are taking advantage of the workers. President, I have been fighting against this since 1995. After spending so much time and efforts on this, we still have not addressed the issue. I feel I have let the wage earners down. We started raising this question in 1995, but to date, the issue is still not addressed.

Now, one of the reasons for full portability being unable to be implemented is employers are using the MPF contributions to offset severance payments. The contributions cater for the employers so that they can use them to offset severance payments. They do not serve as pensions for employees. They do not serve as provision of security for employees. They are used by the employers to offset severance payments. It is precisely because employers must be allowed to continue using MPF contributions to offset severance payments that employees are not allowed to have full portability. They are not allowed to have a free choice of trustees for the employers' contributions. Employers are asking if employees are allowed a free choice, when the returns are unable to pay for the severance payment, whether it would mean the employers have to "foot the bill". Employers should "foot the bill". Employers should pay for the severance payments. The two are not related, but they insist on linking them together, thus turning the situation into such a mess. Thus, we think that semi-portability is not enough; instead, full portability should be implemented.

There is another thing which I have advocated, and that is, not only must we implement full portability, legislation must also be enacted to regulate the maximum level of the administration fees, so that administration fees are not allowed to exceed a certain level. At present, we know that the investment fees

amount to about 0.6%, the administration fees account for the rest. If the administration fees amount to 2%, 0.6% is accounted for the investment fees required to pay to the investment managers, 1.4% will be used to pay the administration fees. Do they need such a huge sum of administration fees? As a matter of fact, it can be calculated. At present, the accumulated MPF assets stand at $360 million. There will be an annual increase of $30-odd billion in the future. The amount will be accumulated to $400-odd billion after five years. Even though the amount is as huge as $400-odd billion, the percentage of the administration fees remains at such a high level. President, this can really be described as "having cash pouring in". However, the Government does not impose any limits on it.

In my opinion, the most thorough solution is to limit the administration fees. If this is not accepted by trustees, let us just drop it. I have advocated all along that it will be most desirable if a central MPF System can be implemented by the Government. Of course, it will be best if not only a central MPF System, but a universal old age pension scheme is also in place. However, today I am not going to discuss the universal old age pension scheme, for it is another subject. But the thorough solution that can genuinely resolve the retirement problem is — the whole world is not talking about the three pillars, as a matter of fact, the whole world is talking about five pillars, with the universal old age pension scheme being one of them.

President, insofar as the entire issue is concerned, what we are very disappointed with is the waste of a lot of time …… LEUNG Chun-ying has talked about wasting a lot of time, this really is wasting a lot of time, wasting a lot of time on MPF. I really have to see whether LEUNG Chun-ying will save the waste of time, whether he will be able to address the issue properly, and whether the arrangement of offsetting MPF contributions against severance payments will be abolished immediately. I have read his policy platform. He has talked about "on a pro-rata basis" — this is really tricky. What does he mean by "on a pro-rata basis"? I have no idea at all. But it seems he wishes to do something. What should the proportion be? I think it is very simple, and that is, there is no reason to allow MPF contributions to offset severance payments 100%; instead, it should be given to workers 100%. It is very clear to me. The proportion should be 100%. I have no idea what the future holds. Of course, we are concerned about the issue of intermediaries. I consider the supervision of

intermediaries very important. But if we have to lower the administration fees at the same time, I think the proposal put forward today is not enough.

On the other hand, even though intermediaries are subject to supervision, resources required for education of employees in relation to investments should also be provided, so that they have some knowledge of the products. After they have gained knowledge of the products, they will not be influenced too much by the intermediaries. They will have knowledge of the nature of products related to MPF in the current market. To a certain extent, MPF is relatively simple in that the system does not allow derivatives of hedge funds. As the MPF schemes do not allow investments in derivatives, basically the range of investment choices is relatively small, being limited to bonds, stocks and other guaranteed funds, the components of which are different. But at least it is relatively simple. I hold that more efforts should be devoted to the education of investors. Of course, we support excluding complicated investment tools such as derivatives, because they are disadvantageous to investors or workers.

President, I maintain the view that insofar as lowering the administration fees is concerned, the entire Bill is unable to make us feel at ease. The Labour Party proposes that the Government should impose a ceiling on administration fees, and it should set the ceiling by way of legislation for compliance by trustees. Thank you, President.

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): President, please do a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, please speak.

MR WONG KWOK-HING (in Cantonese): President, regarding the Bill in relation to semi-portability arrangement of MPF schemes, I would like to talk about my views on four areas.

First of all, if this Bill is passed and implemented, I envisage there will be various issues relating to investments — investment education, investment costs, investment risks, and investment management. I hope that the Secretary and the Mandatory Provident Fund Schemes Authority (MPFA) will address these four issues squarely and respond to them. I would also like to hear their views when they respond.

Why did I say that investment education and investment risks are two issues that warrant our concern? This is because with the introduction of semi-portability, the public will have a free choice of trustees. When choosing trustees, will there be investment risks and investment pitfalls? This should be a matter of concern to us. Just now our colleague, Mr IP Wai-ming, cited the example of the Lehman Brothers incident. This is the best illustration. Thus, how can we ensure that employees and wage earners are able to identify reliable trustees or trustees worthy of their trust in investments? Education and awareness of risks are very important. I very much hope that the Government will face the issue squarely. Otherwise, it will give rise to a lot of problems if there are great deficits in investments after the implementation of semi-portability.

Further, with respect to investment costs, how can management fees and various administration fees be lowered? This is very important. As a matter of fact, various categories of administration fees are listed by many trustees. I also make contributions to MPF. As a person making voluntary contributions, I have received a heap of materials with terms I can hardly comprehend or understand. Since this is the case, how best management can be strengthened is a very important issue. I hold that the management authority and government departments are duty-bound in this regard.

For many years, the FTU has reflected the wish of wage earners for the Administration's implementation of the system of "bank books". If the system

of "bank books" is implemented, wage earners will be able to check their own savings and investment status frequently through their MPF "bank books". Management and administration fees as well as various expenses can be checked at a glance. As not many people are conversant with computers or operation of computers, it is difficult for these people to be updated with their investment status. Making available MPF "bank books" to wage earners will keep them updated, and facilitate and streamline their savings management. The system will be conducive to enhancing awareness, as well as providing investment details at a glance. Thus, I hope that the Administration will provide a concrete reply to the first issue when it responds later on.

Second, I hope that the Administration will proactively consider helping wage earners invest their MPF on a semi-portability basis through the Hong Kong Monetary Authority (HKMA). Why have I put forward this proposal? I clearly remember the former Chief Secretary for Administration, Mr Henry TANG, had made a clear statement on this in his election platform when he ran in the Chief Executive Election. Let me cite his election platform: encouraging the public to save and make preparations for retirement. It was on the agenda of his election platform to consider inviting the public to make additional contributions to their MPF accounts, which would be placed under the management of the HKMA. Moreover, subject to the performance of the Exchange Fund, investment return or public finances, dividends will be distributed to MPF members.

President, I think it is important that as the former Chief Secretary for Administration, Mr Henry TANG, made such a statement in his election platform during the time of the election. Although Mr TANG was not elected, this good proposal should not be forgotten or deemed not to exist. I hold that this statement from the former Chief Secretary for Administration has, in fact, responded to the strong aspiration of the public for many years. This includes the strong aspiration put forward by Members of the Legislative Council in different meetings because we have confidence in the investments of the HKMA. If the HKMA is allowed to invest on behalf of employees making MPF contributions, it will become a major competitor of the 19 trustees. In the face of the HKMA making investments on behalf of employees, the 19 trustees will really have to consider lowering the administration and management fees. They will really have to consider improving the performance of their investments and

enhancing their competitiveness in order to compete with the HKMA for the major client, namely, the employees.

I believe when Mr Henry TANG made such a statement in his election platform, he had based his statement on his familiarity with the Government's operation, his perception that there is much room, condition and possibility for the HKMA to make investment on behalf of employees, and his confidence in the HKMA investments being able to add value and provide insurance to MPF, which will bring substantial benefits to employees. Thus, despite the fact that Mr TANG was not elected while Mr LEUNG is elected, I hold that the next-term Government should proactively consider adopting and accepting good ideas. It is incumbent upon the current-term Government to proactively consider recommending Mr TANG's idea in his election platform to the next-term Government. Thus, I hope that the Secretary will not evade the second issue when he replies later on. Since Mr TANG had been your colleague for many years, leading you all, for what Mr TANG had set out in his election platform, I believe some of you had more or less — of course I cannot conjecture — provided information to Mr TANG for consideration. Although the current-term Government will come to the end of its term in 10-odd days, with regard to the Bill under discussion today, the Government is duty-bound to proactively consider the good proposal of Mr TANG and put forward the proposal to the next-term Government.

President, the third issue I would like to talk about is related to the structural flaw of the MPF System. There are two structural flaws in the MPF System. The first flaw is the offsetting mechanism. Mr IP Wai-ming and Mr PAN Pey-chyou of the FTU have already mentioned this. Before this meeting, on various occasions and at meetings of the Legislative Council, we have mentioned that the offsetting mechanism is biased in favour of employers to the extent of sacrificing the interests of employees, offsetting the money hard earned from their sweat and toil against the severance and long service payments, which is very unfair to employees. It is not necessary for us to mention other employers. As the major employer in Hong Kong, the Government has taken the lead in implementing the outsourcing system over the past decade or so. Outsourced workers sweat and toil in the hope of saving money for their own use during retirement, but the two-year contracts and three-year contracts have offset the money they have intended to save for a financially-secured life in their old age. Thus, the Government is duty-bound to abolish this offsetting mechanism as a matter of course.

The implementation of the full portability arrangement of the MPF System offers a solution to another structural flaw. Of course, the Government can say that they have to implement the semi-portability arrangement first and see what the results are. If today's Bill is passed, the Government should have a timetable for giving consideration to when to implement the full portability arrangement for MPF. Why did I say this is a structural flaw? Just as the two colleagues have asked, why must the other portion of the MPF contribution for employees be withheld at the employer? Although the amount is not really in the pocket of the employer, but that of the trustee, why can it not be released? As a matter of fact, and to a large extent, this is biased in favour of employers, rendering intangible interests to employers. This is true. They borrow money for investments from banks, and their relationships with banks are built on such basis. Thus, after the implementation of MPF semi-portability, the Government should set a timetable for discussion on when a full portability arrangement for MPF would be implemented.

President, in the remaining time, I would like to talk about the fourth issue, that is, the SAR Government must establish a comprehensive retirement protection scheme as soon as possible. President, why have I raised this question? The MPF System, be it a semi-portability arrangement, or a full portability arrangement, invariably will not be able to resolve the ageing problem, as well as the problem of comprehensive and universal retirement protection in Hong Kong. President, it is an indisputable fact that the population in Hong Kong is ageing. Various statistics of the Government have also mentioned that after a certain number of years, a certain number of people are required to support a certain number of elderly people. It is not necessary for me to repeat these figures. In the face of the ageing population, we have to ask whether the MPF System is practicable. The Government has always mentioned that the MPF System is one of the three pillars of retirement protection. But is this realistic? It is certain that this is not feasible.

President, according to the latest statistics, the Gini Coefficient of Hong Kong has reached a historical high of 0.537. Compared to the figure of a decade ago when the Gini Coefficient was 0.525 in 2001, there has been a drastic rise. On the one hand, there is the continual acceleration of the ageing population, and on the other, there is the increasing disparity between the rich and the poor. Under these circumstances, it is imperative for the SAR Government, particularly the next-term Government, to expeditiously formulate a comprehensive and universal retirement protection scheme.

As a matter of fact, the FTU already specifically put forward this proposal in as early as the '80s of the last century. At that time, targeting at the problems of unemployment, healthcare and retirement, we put forward a scheme name Universal Retirement Protection Scheme. Unfortunately, the then colonial Government did not adopt our views. The SAR Government has also not seriously considered the proposal of the FTU since the reunification. After a delay for 15 years, we are now implementing a semi-portability arrangement for MPF, which is a "half-baked" approach to address the retirement problem, under which those who suffer are the general public, and those who have become victims are the 3 million-odd wage earners. Thus, I hope that the Secretary will not evade the issue when he replies later on. The Government is duty-bound to proactively consider and explore the implementation of a comprehensive and universal retirement protection scheme. It absolutely must not ignore the issue; otherwise, this "half-baked" approach will be of no help at all.

Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, today we have to discuss the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 ……

(Mr Albert CHAN stood up)

PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): Just now there were quite a number of Members listening to Mr WONG Kwok-hing's speech. It would also be appropriate if more Members can come back to the Chamber listening to Mr LEUNG Yiu-chung's speech.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, Mr WONG Kwok-hing stood up)

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, what is your point?

MR WONG KWOK-HING (in Cantonese): President, would you please consider allowing Members to go for dinner at an appropriate time. The quorum is not present as some Members may be having dinner, leading to a waste of 15 minutes on headcount. President, instead of wasting time on a headcount, would you please consider my proposal.

(While the summoning bell was ringing, Mr WONG Ting-kwong stood up)

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, what is your point?

MR WONG TING-KWONG (in Cantonese): President, a point of order. Having worked as a Member of this Council for so many years, it is the first time that I have met with such a situation. The number of Members present used to be fewer during meal breaks. During the past few days, however, some Members requested a headcount during mealtime. I hope that any colleague requesting a headcount can demonstrate some compassion because it is bad for our health without a short break. What is the purpose behind such requests for a headcount? I think the public know very well when watching the Council meeting on television. President, would you consider a break now, giving us half an hour, so that we can have ample time to take a meal without any hassle?

PRESIDENT (in Cantonese): With regard to the arrangements for this meeting, the Secretariat already informed Members well beforehand and Members should be aware of them. If you have any views on the subsequent arrangements, I am most happy to listen.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, please continue.

MR LEUNG YIU-CHUNG (in Cantonese): President, the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 tabled for our passage today mainly seeks to set up a statutory regulatory regime for Mandatory Provident Fund (MPF) intermediaries. Why do we have to set up such a regime? This is because employees will be able to have a free choice of their own trustees by the end of this year, just as the Government has said. It this is really going to be implemented, 2.5 million employees and self-employed persons may engage in transfer activities, which will result in transfer of funds in substantial amounts.

According to the Government, it is estimated that the size of transferable MPF assets will increase from about 39% to about 67% of the total MPF assets based on the figures as at end August 2011. The current MPF amount stands at $300 billion. Let us take a more convenient figure of 70% instead of 67% for computation, seven times three equals to 21, that is, the amount is $210 billion. If 2% of the amount is taken as administration fees, there will be over $4 billion in the market, which is a substantial amount. Thus, the Government has anticipated that there will be more vigorous and intensive investment, sales and marketing activities by intermediaries.

What will happen as a result of this kind of activities? Many are worried that it will be like the financial crisis in 2008, resulting in adverse impacts on the protection of investors. Thus, a regulatory regime for intermediaries is needed. It is quite understandable if the matter is assessed from this perspective. If the regulatory regime for intermediaries is not in place, there are worries that employees or self-employed persons will suffer because of these transfer activities. Thus, we cannot but support the original motion.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

The Government has also mentioned that the objective of setting up a regulatory regime is to protect investors. Unfortunately, a regime to protect investors has not been genuinely established under the original motion. Why did I say that? This is because in case of misconduct of an intermediary which causes losses to an investor, under this legislation, the intermediary will be penalized at the most, but the investor is by no means protected. Even if the

intermediary is fined, the investor will not be compensated for the loss suffered. The situation is like that. Or if the intermediary has really done something wrong, he can offer to settle the case with the investor. However, the investor does not know what kind of wrongdoing the intermediary is involved in, and how much losses he has suffered. The MPFA responsible for the investigation will not inform the investor either. In this way, it is most likely that the investor has no option but to accept whatever amount of compensation offered by the intermediary. Under this circumstance, protection is not extended to the investor.

Two amendments targeting at these two aspects have been proposed today. I hold that under the existing powerless MPF System, these two amendments should be supported. I reiterate, under the powerless MPF System, we are powerless to do anything but support the original motion and the two amendments.

Deputy President, it is known to everyone that as we are powerless to do anything else, the original motion and the amendments are something we have to do. The question is whether we should agree to them. I wish to tell the Government clearly that although I will support the original motion and the two amendments, it does not mean that I agree to this system. Before the reunification, I voted against the MPF System. I do not agree to the MPF System because the effects generated by the MPF System are not able to provide effective retirement protection for employees.

The MPF System has been implemented for 12 years. Recently I asked some grass-roots workers how much they had actually saved in their accounts after working for the past 11 to 12 years. The majority answered the amount was around $80,000 to $100,000. If the working years are extended to 30 to 40 years, which is not a very long period, how much more money will be saved? The amount will be about $400,000 to $500,000. If we wish to double the amount, on the presumption that the economic situation is good with high investment returns, the amount may reach $800,000 only. Will this amount of about $800,000 ensure a financially-secure life for these grass-roots workers after their retirement at the age of 65? I guess everyone knows that the amount is certainly insufficient.

Thus, on this premise, to the grass-roots workers, the MPF System is only "better than nothing". However, this "better than nothing" mainly applies to those wage earners who have jobs. For those who are unemployed, what are they going to do? They are completely without protection. The entire retirement protection system almost relies on this alone; otherwise, they will have to rely on Comprehensive Social Security Assistance (CSSA) or the "fruit grant". Unfortunately, both CSSA and the "fruit grant" are not desirable systems. As a matter of fact, with the ageing population, if all the elderly people rely on CSSA or the "fruit grant", it will be an enormous burden on the Government.

It is not that the Government is not aware of the problem. The Government keeps on telling us and reminding us that the situation of the ageing population will be extremely serious in the future. According to the Government, there will emerge the phenomenon of one elderly out of four persons. If this phenomenon is going to emerge, and we still do not seriously consider devising a better retirement scheme today but only rely on the MPF System, how are we going to face this problem? Like an ostrich, the Government has all along ignored the problem. Deeming it to be non-existent, the Government has only attempted to continuously improve the MPF System over the past several years. Unfortunately, no matter how it is improved, it is meaningless if its intrinsic nature is not changed. Even though employees are allowed a free choice of trustees now, so what? Even if I have chosen a very good fund investment plan, what is the best return? Will it be able to yield a pension amounting to $1 million or $2 million when I retire at my old age? It is very difficult to achieve such a result, and the actual amount is also not enough. Thus, the Government must not waste any more time. It must not evade considering seriously the problems of retirement and ageing of population.

Of course, the Government can say not that nothing has been done. It has already provided the three pillars in accordance with the international practice; as support is already in place, why think further? However, the situation is not like that at all. We have repeatedly mentioned that the MPF System is only "better than nothing". Insofar as many wage earners are concerned, they still lack protection by a safe and healthy retirement system.

Just now, many colleagues have repeatedly said that there are inherent flaws in the MPF System, which include offsetting contributions against severance and long service payments, and the existing high administration fees. As mentioned by colleagues just now, employees may be able to take back about 60% to 70% of their contributions, while the intermediaries and trustees will have taken 30% to 40% of the contributions. This gives an impression that those people are being "fattened".

I do not understand why the SAR Government or the former British Hong Kong Government always enacts laws that allow private organizations to earn money. I really do not understand why the Government insists on enacting laws that allow private organizations to take the hard-earned money of the public, rather than properly drawing up a universal retirement protection system under which money of the public will directly benefit those in need. At present, it is allowing some people to earn substantial amounts of money just by sitting around idly, lining their pockets without any justification. Why do we allow that to happen? It really baffles me. Thus, even if the MPF System will be further improved in the future, or the detailed specifications of the System will be improved, it will not help at all. This cannot take the place of a sound retirement scheme. Therefore, I really do not support further entanglement over the details of the MPF System. Instead, the Government should set its mind on providing universal retirement protection properly. Otherwise, it is meaningless. It is not going to resolve the future problem.

How can we resolve the universal retirement problem? I have some suggestions. As I have not conducted in-depth researches, these suggestions may not necessarily be the most comprehensive solution. The Government had twice handed out $40 billion in a year in the past. Since the Government had handed out $40 billion per year, so in the next five years, if we can allocate $40 billion per year for the setting up of a seed fund, after five years, we will have amassed $200 billion. Likewise, there will also be investments and returns for this amount of $200 billion during the period. After five years, the amount will be more than $200 billion. In this way, employees and employers are not required to make contributions to the MPF schemes in the sixth year. They will be required to make contributions to the "big pool" only. We can discuss the details of how it is going to work by that time. For instance, the group of people aged 65 or 60 will no longer receive CSSA or the "fruit grant", and instead, they will be simply given a pension of $3,000 or $3,500 monthly.

Those who have all along made contributions to MPF schemes or who had made contributions to MPF schemes will not be required to make contributions anymore. They can take the money back immediately or make further investments, as the two accounts have been separated. With the existing contributions from three parties — employers, employees and the 5% contribution by the Government, in addition to the seed fund, I believe we may have the opportunity to achieve universal retirement protection.

I hold that the Government can consider these problems from this perspective and direction. It cannot, and should not continue telling us how improvements on the existing MPF System will be better able to protect us. As I have mentioned just now, how are we going to protect those who do not have a job, such as housewives? What are they going to do? They do not have any protection. As they do not have a job, they cannot make any MPF contributions. What are they going to do when they retire? If they do not ask their children for money, they will have to ask their elderly companion for money. But if the children are unable to take care of their own families, how are they going to support her? If the elderly companion passes away, who is going to support her? The Government has not considered this problem at all. It turns a blind eye and a deaf ear to it.

We have talked about this for many years, but has the Government come up with any good solutions to this problem? You may say there are solutions such as CSSA or the "fruit grant". However, all of us know that the "fruit grant" is not enough to meet the basic and essential needs of a person. As for CSSA, all of us know that many people are not willing to be a CSSA recipient because the Government has taken the lead to discriminate against CSSA recipients to the extent that those who are in need dare not apply for CSSA. Even if they are CSSA recipients, they are pressurized to make the applications. So what is the merit of it? Given this, why does the Government not earnestly consider setting up a universal retirement protection scheme in the direction mentioned by me just now? Such a scheme will enable everyone to proclaim in a fair and square manner that he had contributed to the community when he was young; and the Government is providing a pension for him during his twilight years so that he can enjoy protection and stability in his living. Why does the Government not think from this perspective, instead of making trivial amendments to the existing system?

Of course, just as I said just now, before the introduction of a universal retirement protection scheme, the loopholes of the MPF System have to be plugged. I agree to this. But the Government cannot devote all its efforts to or focus on the amendments only, without giving a thought to a universal retirement protection scheme. The Central Policy Unit has claimed that many studies related to the problem of universal retirement protection were conducted. However, Deputy President, it is really unfortunate that to date, the Unit is still unwilling to release any information on them. I do not know the present stance of the Government on a universal retirement protection scheme. And I consider this most regretful.

(Mr Albert CHAN stood up)

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): I request a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): Mr Tommy CHEUNG, please speak.

MR TOMMY CHEUNG (in Cantonese): Deputy President, just now the speeches of many colleagues seemed to be irrelevant to the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011(the Bill). For instance, they talked about a universal retirement protection scheme, whether a full portability arrangement should be implemented, and how the Mandatory Provident Fund (MPF) System should be, and so on. Today I do not intend to debate with them on these subjects when I speak.

Deputy President, today I would like to come back to this Bill. In recent years, the Government has made continuous updating and improvement to the Mandatory Provident Fund Schemes Ordinance, including the introduction of this Bill.

At present, no legislation is in place to regulate MPF intermediaries in Hong Kong. The supervision of intermediaries has been conducted by administrative means through the implementation of the Code of Conduct for MPF Intermediaries. Since the Code of Conduct is not law, it cannot provide a legal basis for reference in case of controversy or dispute settlement.

With the Mandatory Provident Fund Schemes Ordinance in place, there is a need to set up a statutory regime in Hong Kong for the regulation of intermediaries in order to provide further protection for investors and implement the Employee Choice Arrangement. From the perspective of setting up a statutory regime for the regulation of intermediaries, I support the relevant Bill.

One of the controversial points of the Bill is the amendment proposed by Mr WONG Sing-chi. He has proposed to amend section 34ZZ(2)(a) to stipulate that if the Mandatory Provident Fund Schemes Authority (MPFA) has formed a preliminary view on a disciplinary order to be imposed on the regulated person, the MPFA must notify the person who has lodged the complaint of the relevant view at this stage.

I hold that before the completion of the entire disciplinary proceeding, notifying the person who has lodged the complaint in the course of the proceeding is unfair to the regulated person in question. This is because after the regulated person is informed of the MPFA's preliminary view, he can still make further representations and furnish additional information. At this stage, if the MPFA has formed a preliminary and negative view of the regulated person in question, and has notified the complainant at the same time, it is possible that the complainant may form a misconception that the final disciplinary decision will be the same as the preliminary view. This may give false hope to the complainant and induce him to take legal action prematurely. As a matter of fact, there is a possibility that the MPFA may alter its view after the regulated person concerned has submitted additional information and representations, and ultimately disciplinary sanction may not be imposed on the regulated person concerned.

Thus, I hold that the MPFA should inform the complainant of the result only after the final disciplinary decision has been made. This will be more reasonable and fairer to both the regulated person and the complainant concerned. Thus, I cannot support Mr WONG Sing-chi's amendment.

Mr KAM Nai-wai's amendment has proposed that the MPFA should be given additional power to order the intermediary found guilty of misconduct to pay compensation to the complainant who has sustained loss. I hold that a complainant seeking compensation from an intermediary found guilty of misconduct should resort to legal proceedings. He should initiate civil proceedings in court to seek compensation from the intermediary found guilty of misconduct. This practice is proven, and has been implemented in many other jurisdictions. The MPFA is, after all, a regulatory body, not a court of law. If the MPFA is empowered to order an intermediary found guilty of misconduct to pay compensation, it will be tantamount to converting the MPFA to a court of law, indirectly transferring the adjudication of cases seeking compensation from the Court to the MPFA. Such a practice is unreasonable. It also involves many issues such as allocation of resources, roles, as well as effects on the entire financial regulation regime. Before the Government has thoroughly considered this proposal and conducted an extensive consultation, I do not think we should make such an important but unreasonable amendment. Thus, I cannot support Mr KAM's amendment. However, I support the passage of the Bill and the amendments proposed by the Government.

Deputy President, I so submit.

MR ALAN LEONG (in Cantonese): Deputy President, there are many inherent flaws in the Mandatory Provident Fund (MPF) System, which have been explained by Members of the Council from various perspectives just now. Deputy President, I believe you are already familiar with these flaws, such as excessive management fees, high fees eating into contributions, default on contributions by employers, offsetting contributions against severance payments — if an employee has changed his jobs several times, after his contributions have been offset a few times, he will easily find nothing much is left in his MPF account. Or we can take a look at the return rate of the existing MPF. It is extremely low. If you rely on it to support your living after retirement, I really have to wish you luck. Thus, the entire MPF System is practically unable to

address the current problem of ageing population in Hong Kong. In this connection, on various occasions and in many committees, particularly the Subcommittee on Retirement Protection, the Civic Party has strongly urged the Government to expeditiously put forth a strategy that aims at addressing the problem of ageing population in Hong Kong. If it is not the intention of the Government to implement a universal retirement protection scheme, it has to tell us what its plan is. If the Government has no intention of implementing a universal retirement protection scheme, but only repeatedly talks about the three pillars, with the very unreliable MPF being one of the pillars, it will be difficult for the Government to be accountable to the people of Hong Kong.

Deputy President, we have to understand that the Mandatory Provident Fund Schemes (Amendment) (No 2) Bill 2011(the Bill) is introduced to complement the implementation of the Employee Choice Arrangement (or known as MPF semi-portability) by the end of this year. Of course, the Bill cannot completely remove the flaws of the MPF System I mentioned just now. Nevertheless, preparations for the Employee Choice Arrangement have to be made under the existing circumstances. Thus, on such basis, the Civic Party supports the Bill. However, we must reiterate once again that the Civic Party holds that the MPF System alone absolutely cannot address the problem of post-retirement living arrangements of Hong Kong people. Further, many experts and actuaries have said that if action is not taken in the next five years, we can basically forget universal retirement protection in the sixth year. This is because the ratio of the population with productivity and the retired population will have exceeded the tipping point by that time, which makes it impossible to make long-term and sustainable arrangements for universal retirement protection.

Deputy President, the existing Mandatory Provident Fund Schemes Ordinance has not provided a legal regulatory basis for the Mandatory Provident Fund Schemes Authority (MPFA) to regulate intermediaries selling products. Some regulation is conducted by the MPFA through administrative means and measures only. This Bill serves to improve the existing system, and make preparations for the foreseeable semi-portability arrangement and the possible emergence of scrambling for clients by intermediaries or unscrupulous trade practices, so as to avoid making the same mistake, and prevent incidents such as the Lehman Brothers minibonds incident giving rise to massive mis-selling from happening again.

Deputy President, I must state that this Bill is not easy to understand. As a matter of fact, I am not the only person who holds such a view. I remember that when representatives of The Law Society of Hong Kong made their presentation of views to the Bills Committee, the comment they made was this Bill was unusually complex and difficult to understand. They even asked the Government whether it would consider redrafting this Bill. Of course, it will be difficult to do so. Thus, after the Bill has been passed today, during the initial period of its implementation, the MPFA and the several regulatory bodies should be very patient when they make clear explanations to those affected — be they intermediaries or wage earners. This is because if we ask them to fully understand the new arrangements just by reading the provisions in black and white on their own, we are indeed making things difficult for them. I hope the Administration can understand this and make proper preparations.

Deputy President, the Bill has formulated the entire framework of the regime under which intermediaries will be supervised by the respective regulators of their own sectors. In other words, the MPFA very much relies on the Securities and Futures Commission (SFC), the Insurance Authority (IA), and the Hong Kong Monetary Authority (HKMA) for the supervision of intermediaries. Just now Members have mentioned their worries of different policies coming from different organizations to the extent that matters will not be tackled in a consistent and fair manner. As intermediaries are under different regulators, for instance, an intermediary under the HKMA may find the supervision of the HKMA more stringent than that of the SFC, or the supervision of the SFC is more stringent than that of the IC. In the course of our scrutiny, we have discussed this with the Administration and got an assurance by the Administration that when the MPFA implements this mechanism, it will certainly ensure that the three front-line regulators — be it the SFC, the IC, or the HKMA — will seek to maintain consistency and uniformity under their respective purview, so as to prevent intermediaries under different regulators from being subject to different requirements on their professional conduct. We will certainly monitor the situation when this mechanism is implemented in the future.

Moreover, this framework alone is not enough. We can imagine that when intermediaries as this piece of fat pork, they will certainly make every effort to attract wage earners to transfer their benefits accrued over so many years to the products they sell or the accounts of their trustees. Thus, the Civic Party holds that on implementing the semi-portability arrangement by the end of this year, the Government should carry publicity and education initiatives so that wage earners

will not be easily attracted by unscrupulous sales practices or boasts relating to past performances of high investment returns and subsequently transfer their accrued benefits. I also wish to specially remind wage earners not to easily give authorization to intermediaries in relation to the transfer of accrued benefits under their accounts. These are areas on which the Government should plan its publicity initiatives.

Finally, on behalf of the Civic Party, I would like to express our views on the amendments proposed by Mr KAM Nai-wai and Mr WONG Sing-chi. With regard to Mr KAM Nai-wai's proposal that the amount of compensation should be determined by the MPFA, the Civic Party has reservation about it. This is because section 45G has already obviated the need for some investors to prove liability of the person being complained in civil proceedings. If it can be proved that according to this Ordinance, the person being complained has been investigated and found to have really breached the professional conduct, this can serve as evidence in the civil court to prove that the relevant organization should be liable. Thus, the investor needs only to prove his loss to the Court, and the Court will determine the amount of compensation. The investor is already protected in this regard. With respect to his claim for loss, at least half of the efforts can be saved.

Regarding the proposal in Mr WONG Sing-chi's amendment which requires the MPFA to disclose the results of the interim report to the complainant once the report is ready, we also have reservation about this. Insofar as the entire procedure is concerned, when the complainant lodges a complaint, after the preliminary report is released, the person being complained is actually given an opportunity to submit new evidence and new proof. Thus, the results may in principle or in reality vary from the interim report. For this reason, we hold that disclosing the result of the interim report at that stage may be premature. Of course, after the completion of the entire report, we support that the relevant complainant should have access to the entire report, or even the details of the disciplinary sanctions.

Deputy President, with respect to this Bill, I have already stated the stance of the Civic Party. We support the resumption of Second Reading. I so submit.

(Mr Albert CHAN stood up)

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN, what is your point?

MR ALBERT CHAN (in Cantonese): I request a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kin-por, please.

MR CHAN KIN-POR (in Cantonese): Deputy President, compared to pension systems around the world, the Mandatory Provident Fund (MPF) System in Hong Kong is characterized by its having the shortest history and its contribution rate and asset balance also being the lowest. As a matter of fact, a pension system will need at least 30 to 40 years before it can mature. It follows that it is not scientifically sound or reasonable to use the percentage taken up by administrative fees against the total assets as a basis to compare the MPF System here in Hong Kong with other pension systems which are more than 10 times or even dozens of times larger in scale than ours.

In fact, the operation of a MPF system entails fixed expenditure and other kinds of floating expenses linked with assets. Since the present MPF System is small in scale, the fixed expenditure would naturally take up a higher percentage against assets. With automation and other streamlining measures in the MPF System, also as the contribution ceiling is raised and the MPF balance continues to rise, plus factors like competition in the relevant industry, it can be envisaged that the administrative fees will continue to come down and Hong Kong will catch up with other mature markets which are far larger in scale.

The problem of population ageing in Hong Kong is grave and in order to tackle the problem of retirement, it is essential to better the MPF System.

Measures that can be adopted include introducing MPF Full-Portability, raising the contribution ceiling and the rate of contribution, as well as encouraging people to make voluntary contributions, and so on. At the same time, the Government should work on the basis of the existing MPF System and study the possibility of introducing a universal retirement protection scheme. It should conduct consultations and discussions on the scheme with a view to forging a consensus in the community.

I have made many proposals in the Bills Committee and they are all accepted by the Government. As the Government has proposed the relevant amendments, I would not talk about my proposals in detail here. I support the passage of this Bill so that MPF Semi-Portability can be rolled out expeditiously.

As for the amendments proposed by Members, the amendment from Mr WONG Sing-chi urges that the Bill should stipulate that the Mandatory Provident Fund Schemes Authority (MPFA) should provide a person lodging a complaint with a copy of notice containing the preliminary view of the MPFA on the matter complained against. I wish to draw Members' attention to the fact that what is contained in this notice is only a preliminary view of the MPFA after investigation into the complaint, and the MPFA has a statutory duty to inform the regulated persons of their right to make representations. These regulated persons may make additional representations and provide evidence in relation to the view of the MPFA and the grounds given. It can be seen that at this stage, the investigation is not yet complete and the result may be entirely different after the regulated person concerned has made his representation. It would not be appropriate to inform the complainant of the preliminary result before the final investigation result is known. It would not be fair either. Therefore, I cannot support this Mr WONG Sing-chi's amendment. However, I do support the idea that the complainant should be informed of the final result when the investigation concerned is complete, such that he can be informed of the investigation result and the details of the sanction to be imposed.

I also understand that Mr KAM Nai-wai has proposed an amendment for the protection of investors, in order to prevent the latter from having to pay high legal costs if proceedings must be brought before a court of law. However, I would think that if the regulatory body is empowered to order a regulated person to pay compensation to an investor and if it is stipulated that a person who has sustained financial loss that is attributable to an intermediary's breach of the

requirements or standards under the new Part IVA may bring proceedings to the Court for a claim, this will produce very far-reaching impacts on the financial regulatory regime in Hong Kong. As this is a grave issue, there should be full-scale consultation by the Government to allow those affected persons to voice their opinions and a decision should be made only after the pros and cons are carefully weighed. So I cannot lend my support to this amendment from Mr KAM Nai-wai before a full-scale study is conducted on the possible impact.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR ALBERT CHAN (in Cantonese): Deputy President, as a matter of principle and in terms of the Bill as a piece of legislation, the People Power opposes the MPF System for the reason that this System is proof of the Government's lack of commitment and its passing on to the people the responsibility for formulating retirement arrangements and assuring a decent retirement life.

Over the past few years, the Government has had an enormous fiscal surplus, but it opts for a rebate in government rates and tax instead of making any commitment to the people's retirement protection. For many years we have been urging strongly that a universal retirement protection scheme be set up and preferably, the Government can make the necessary financial commitment and the legal arrangements. But the Government has rejected the idea repeatedly and against a background of a huge surplus recorded for many years in a row, it still refuses to set up a universal retirement protection scheme. This is a clear indication of its lack of any sense of social responsibility.

The Amendment Bill this time basically enables the MPF System to move in the direction of portability. I would think that this movement towards portability of the MPF System is full of pitfalls. It is because the 2 million contributors to MPF schemes would easily become preys of the financial institutions as they vie for customers and also because of other relevant arrangements. These contributors will follow the footsteps of those victims of the Lehmann Brothers minibonds incident.

Mr Alan LEONG pointed out earlier that The Law Society of Hong Kong cannot comprehend the text of the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011. This situation resembles that of the Lehmann Brothers incident back then. At that time, the persons in charge of a couple of banks said that they could not understand the design of the Lehmann Brothers minibonds and so they did not agree to undertaking the distribution of these minibonds. In the Lehmann Brothers incident, there were a couple of banks which escaped unscathed and this shows not only that the management of these banks was prudent but it is also sound evidence that an attitude of prudence and responsibility of the banks will enable these banks to avoid disasters in the financial market which is filled with traps everywhere.

Since lawyers, experts and some representative organizations all say that they cannot understand the Bill, if any attempt is made in future to pursue responsibility, I am sure it would be much more difficult than that in the Lehmann Brothers incident. Can the wage earners pursue any responsibility with respect to their contributions made? Does their hard-earned money enjoy any reasonable protection? All these are important issues to consider.

Deputy President, for the public at large, the MPF System is an obvious example of collusion between business and the Government and a transfer of benefits among them. At present, the MPF schemes have accumulated as much as some $360 billion. This sum of money is a vast pipeline which pumps interest to the financial institutions, and the Government is using the law to rationalize and legitimatize this transfer of benefits.

The performance of the MPF schemes over the past decade has been disappointing. The schemes levy high administrative fees. These are what members of the public all say about MPF. Whenever mention is made of MPF, the wage earners would get infuriated. All through these years, the financial institutions have collected tens of billion dollars in administrative fees from the wage earners. This hard-earned money of the people will only shrivel and dwindle when placed in the hands of these financial institutions which make profiteering their only goal. It is an undisputed fact that the investment return of the MPF schemes lags behind market performance. The many studies done by experts and analyses all show that there is ineffective regulation from the Government.

Someone has made this computation. If the administrative fees are lowered from 1.75% to 1%, and when pitched against an investment period of 30 to 40 years, each wage earner can make at least an extra $200,000 or more. It can be seen that these exorbitant administrative fees are so very much unreasonable that the interest of wage earners is seriously undermined.

Deputy President, please do a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(When the summoning bell was ringing, the President resumed the chair)

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): President, I said just now that the MPF System is basically an arrangement intended for collusion between the Government and business and the transfer of benefits. Many of the financial institutions involved are financial hegemonists and subsidiaries of large banks. Some senior officials would join the boards of these large institutions as non-executive directors after their retirement.

The collusion between the Government and business has aroused public fury and the situation is deteriorating. The Gini Coefficient announced yesterday shows that the wealth gap has widened, which is a result of collusion between the Government and business and the transfer of benefits. For many years, the Government has disregarded its basic responsibility in public administration and continues to "augment the water flow" by enacting this kind of law and devising systems similar to the MPF System. All these are proof of the transfer of benefits and collusion between the Government and business. Therefore, the public cannot continue to endure dumbly and let senior officials

cozy up to those consortia, so that they can enjoy all the wealth and glory when the public are living in misery.

President, the Bill to be passed today is described as "MPF portability". Indeed, the aim and original intention of the Bill is a small improvement over the existing MPF legislation. However, the MPF System is basically an apple that is rotten to the core and the public have also been thoroughly tormented by this rotten apple. For this reason, we cannot support the Second Reading of the Bill.

There are still many problems with the statutory regulatory regime for intermediaries and the details of the Bill. Later on, we will express our views on some amendments at the Committee stage. We believe that the government amendment to reduce the fine drastically is particularly undesirable because apparently, it was after the industry had exerted its influence that the Government came up with such an amendment, so as to let people guilty of misconduct off lightly instead of imposing the punishments originally proposed by the Administration. This matter amply reflects the Government's lack of sincerity in supervision. It is unreasonable that the industry only had to exercise its influence …… this is like the case a number of years ago in which Mr Dominic WONG, the former Secretary for Housing, originally said that a law had to be enacted to regulate property transactions, but after The Real Estate Developers Association of Hong Kong had exercised its influence, the Government shrank from it. We had to wait for more than a decade before the Bill on the regulation of property transactions was tabled before the Legislative Council again.

After reading the provisions on the regulation of intermediaries, I found that the provisions are still riddled with problems. In such areas as the formulation of a code of conduct, the establishment of a relevant panel and regulated conduct, the Bill still leaves much to be desired and it can be said that the lightness of the punishment on people found to have committed misconduct would not serve any purpose because some people will be fined just $500 to $700 daily, but we are talking about an MPF market involving more than $30 billion. The lightness of the penalty reflects the latitude of the Government towards white-collar crimes. When people in senior management are involved in corruption, often, the Court only put on a good behaviour bond but if an ordinary member of the public steals a pack of noodle from a supermarket, he will be sentenced to imprisonment for two to three weeks. Often, if white-collar

workers who are professionals, at senior levels of management and in positions of authority break the law, they are dealt with leniently. The so-called punitive provisions in this Bill also would have such an effect only.

As regards the two amendments proposed by the Democratic Party, we agree with their direction. We will comment on them individually at the Committee stage later. We believe that so long as the amendments are designed to protect ordinary members of the public or strengthen statutory protection, for example, in the compensation procedure, they deserve our support in spirit. Of course, in respect of the provisions, there are still many technical problems in the proposals put forward by them and we will comment on them later.

President, I believe that at this stage, the Government should give this matter reconsideration because there will be a change of the Government and the leadership very soon. Although Secretary CHAN's position is as secure as it could be and he can continue to serve in this post, it does not mean that you can continue to display the indolence of the former regime and continue to protect the interests of consortia. One of the orders on ruling Hong Kong given by the Central Authorities to this Hong Kong communist called LEUNG Chun-ying is that he has to target the *status quo* of the traditional plutocrats, who control the economy and people's livelihood in Hong Kong, by introducing sea changes. If you continue to defend the financial hegemony, I believe in the next few years, it would be very difficult for you to stay in the post of the Secretary securely in the next few years as you have in the past few years. Therefore, in the days to come, you have to perform some political tasks. In the face of the financial hegemony, even if you do not challenge it all out, you still have to make some gestures in regard to issues affecting people's livelihood.

Of course, ultimately, LEUNG Chun-ying would not dare take any action because a lot of interests are at stake. For example, he said a few days ago that there was no need to cause downward adjustments in property prices. When he was running in the election, it sounded as though he could achieve everything but after his election, he has become more reserved about the various issues relating to the major property developers, whom he criticized strongly during the election.

However, if the financial hegemony involves foreign capital, maybe his attitude would be somewhat different because he can exploit such an opportunity to undermine foreign capital, so that red capital can gradually make inroads into

the Hong Kong financial market. This may also be a political task that he has to accomplish. In fact, this is not difficult to accomplish because the funds involved in the MPF schemes are increasing and at present, they already amount to some $360 billion or $370 billion and each year, tens of billions of dollars are accumulated continually. If this goes on, foreign financial institutions cannot be allowed to continue to whip up trouble in Hong Kong, with a view to treating Hong Kong like an automatic teller machine and plundering us of our money continually.

Of course, at present, the control of Hong Kong capital on the MPF market is already not that weak. However, it is believed that an inevitable political trend in the future is that red capital and the financial institutions of our Motherland would also want to have a share of the pie in Hong Kong. Ordinary members of the public and wage earners in Hong Kong may have to face another group of vested interests *(The buzzer sounded)* …… and their rights and interests will continue to be exploited.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(Mr WONG Yuk-man stood up and intended to speak)

MR ALBERT CHAN (in Cantonese): President, it would be fairer if more Members can come back to listen to Mr WONG Yuk-man's speech. I request a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr WONG Yuk-man, please.

MR WONG YUK-MAN (in Cantonese): President, the People Power has all along opposed the Mandatory Provident Fund (MPF) scheme. We hold that the MPF scheme fails to respond to the aspirations of the community. In order to resolve the problem, the Government should implement a universal retirement protection scheme on a full scale.

Hong Kong is a relatively developed region. Let us take a look at it. In terms of per capita income, Hong Kong is categorized as a developed region; but in terms of the disparity between the rich and the poor, we rank first in the world, with the latest Gini Coefficient reaching 0.537. However, the Census and Statistics Department (C&SD) has been playing with the figures by adopting the Gini Coefficient of the post-tax post-social transfer household monthly income, which is 0.475.

This Government loves the act of deceiving themselves as well as others. We remember that in 1999, the C&SD again played with the figures and came up with the figure of 1.67 million Mainlanders coming to Hong Kong from the Mainland. Officials of the Government were scared stiff — Mrs Regina IP has left the Chamber, at that time she was one of them. The Court of Final Appeal handed down its judgment in 1999, that children born in the Mainland to Hong Kong residents have the permanent right of abode in Hong Kong. It was then in June that the National People's Congress (NPC) made an interpretation of the Basic Law. The basis prior to the interpretation by NPC was TUNG Chee-hwa's failure to observe the law, and his refusal to abide by the judgment of the Court of Final Appeal. He then played with the figures and claimed that there would be an influx of 1.67 million Mainlanders into Hong Kong. This claim was tailor-made for Hong Kong people, for they would certainly oppose it. This is tantamount to the recent issues of "doubly non-permanent resident babies" or the right of abode for foreign domestic helpers. Hong Kong people are like this — once they are on the bus, it suits them best if the bus driver does not stop the bus at the next stop. Every one of us came from the Mainland to Hong Kong. Buddy, your father came from the Mainland, right? Even if your father did not, your grandfather did. You don't have a conscience at all. This kind of people is most suitable for the Hong Kong Government. That is why people say that it is easy to govern Hong Kong people. Just dish out some sweeteners to them will do. Take this "tall guy" as an example. He only needs to say a few nice things and many people are feeling "high". As a matter of fact, this guy is really "lacking in substance". He has this proposal of putting in place "five Secretaries

of Departments and 14 Directors of Bureaux". As he does not have any genuine calibre at all, it would be better if he does not fantasize of assuming office by 1 July.

We have all along been living in a place where the disparity between the rich and the poor ranks number one in the world. But we do not have a comprehensive universal retirement protection scheme put in place. The so-called Mandatory Provident Fund (MPF) scheme introduced in 2000 is not comprehensive at all, nor is it able to provide sufficient retirement protection for all sectors of the society. This MPF scheme is also rigid. This is obvious as the Council has to deal with this so-called amendment of the legislation today. Why do we have to amend the legislation? Because the MPF scheme is rigid. On my left are Members who plead for workers and wage earners. They had talked about this when they spoke, so I need not make any further elaboration.

This MPF scheme that requires us to make contributions for 20 to 30 years but still fails to provide sufficient protection really cannot justify its existence. On 1 October 2010, I used the phrase "critically ill beyond cure" to criticize the MPF scheme in this Council. The situation in a developed region should be like this — the widowed, the single and people with disabilities are all cared for. Is that right? At present, the elderly over the age of 65 can ride on the Mass Transit Railway at the fare of $2, with the shortfall being subsidized by the Government. The subsidy is provided to the public transport companies, not to subsidize …… it is paid by taxpayers. Why are the public transport companies, after reaping excessive profits, not offering benefits to the elderly as a token of appreciation for their contribution?

There are too many problems with the MPF scheme indeed. The amendments set out in the Bill under discussion today have only touched on some problems. As we all know, the MPF scheme is actually making a sustained and continuous transfer of benefits to the fund sector. The total amount of MPF contributions made by Hong Kong people is an astrological figure. As at the end of 2011, the total MPF assets is over $300 billion.

The Competition Bill passed just now regulates anti-competitive conduct in the market. As a matter of fact, the oligarchy of abusing market position is also found in the MPF market. The five recognized investment fund trustees that

manage the highest total fund value account for close to 70% of the entire MPF market. If the few leading companies do not lower their fees, other trustees will not follow suit.

The performance of MPF returns is unsatisfactory while the management fee is high. This has all along been a cause of criticism. Let us presume that the MPF return rate is 5% per year, and the fund management fee is 2% per year. For a person with a monthly income of HK$20,000, after making contributions for 40 years, the accrued management fee with interest accounts for over 30% of the entire MPF amount, which costs each person at least $1 million. It is absolutely no exaggeration to say that the MPF scheme robs the 7 million people of their hard-earned money.

According to relevant information, in May this year, the investment returns of 433 investment funds under MPF recorded an average drop of over 6%. When compared to the return rate at the end of last year, the accumulated return of the first five months has risen slightly by 0.84%, implying that the MPF contributions of wage earners this year have almost seen nil return. The deficit of the overall MPF was over $23.5 billion last month, which means the average deficit for each wage earner was about $9,146. The general performance for the year is almost back to square one.

In the past, we had often criticized the poor performance of the Hong Kong Monetary Authority (HKMA) in managing the foreign exchange reserve. But compared to the performance of these so-called "MPF Funds", it is more reliable and dependable. Why do we force the public to support these "fund guys"? Although under enormous public opinion pressure, some MPF managers have lowered their management fees, but the fees after adjustment are still very high.

This Bill mainly regulates the so-called intermediaries. The Government is trying to bring the intermediaries under a regulatory regime, but it has turned a blind eye to the core issues of the MPF scheme. The MPF trustees have reaped over $6.6 billion in management fees over the past decade. This amount is the hard-earned money for which wage earners like us have sweated and toiled.

The group "HK No MPF" organized a rally in the rain earlier in protest against the MPF System forcing wage earners to make contributions that amount

to 10% of their salaries, indirectly robbing the public of their properties. However, such news was not reported.

Despite the fact that we disapprove of the MPF scheme, we have to discuss this Bill on its merits and target the facts. We hold that in regulating the intermediaries, we must at the same time conduct a review of the entire retirement protection scheme. Thus, the People Power demands the abolition of the MPF scheme as soon as possible so as to implement a universal retirement protection scheme, rather than making amendments in a piecemeal manner to the Mandatory Provident Fund Schemes Ordinance, because making such amendments basically fails to help wage earners or bring improvements to the retirement life of the elderly.

The Government has often emphasized those three pillars. Secretary Matthew CHEUNG talks about them all the time, just like repeating a cliché response. He talks about private savings, the MPF scheme and CSSA. It would be much better if he does not mention them. When he mumbles something like that, I get indignant right away. What is the amount of CSSA payment? In 2003, "Uncle TUNG" slashed 11.1% off CSSA payment. To date, the percentage has yet to be restored. It has not been restored to the level of 2003. Although the amount has been increased in tandem with inflation, the Administration had slashed 11.1% off the base. A CSSA recipient has only $1,800 to pay for three meals in a day, as well as transportation expenses. He cannot afford to have a mobile phone, and may die without anyone knowing. A few days ago, I was trapped in a lift. Fortunately I had my mobile phone with me and called 999 for help. Someone came within 10 minutes. They were very efficient. If an elderly without a mobile phone is trapped in a lift, he may die at any time. This is very simple, but we must not think lightly of these trivial matters …… They do not even have a mobile phone. Of course, the professor does not know about these things. People he knows will not find themselves in these predicaments. All of the people I know are in such predicaments. I often go to Sham Shui Po, Lei Cheng Uk Estate, Un Chau Estate and Fu Cheong Estate to talk to the elderly. I certainly know. How will he know?

Under the existing Mandatory Provident Fund Schemes Ordinance, the Mandatory Provident Fund Schemes Authority (MPFA) is not given statutory supervisory power over intermediaries selling products. The practice of an

intermediary becoming a registered person on passing the examination administered by the MPFA is only part of the administrative registration regime under which the legal basis is unclear. The existing regulatory practice is certainly undesirable in implementing the new regime which enables employees to transfer accrued benefits to another MPF trustee of their own choice. The Bill now seeks to introduce front-line regulators comprising the Hong Kong Monetary Authority, the Insurance Authority and the Securities and Futures Commission. However, the problems generated by a similar approach of co-regulation were reflected in the Lehman Brothers minibonds incident. We have reservation about this kind of arrangement. Nevertheless, there has been a growing trend of this approach of co-regulation. The requirements in relation to the telecommunications sectors specified in the Competition Bill passed just now is one of the examples. We hold that insofar as the regulators are concerned, the rights and responsibilities of the parties as well as the consistency of regulation should be handled carefully. We hope that the relevant authority will be able to learn from experience.

Meanwhile, the Bill also establishes an electronic transfer system for transfer of accrued benefits and enhances deterrence against default contributions by employers. At the beginning of this year, a director who had not registered his employees for the MPF scheme and defaulted contributions up to nine months amounting to a total of $10,000-odd was sentenced to imprisonment for two months, which was suspended for one year. He was the first director sentenced to imprisonment for an offence under the Mandatory Provident Fund Schemes Ordinance. A fine of $40,000 was also imposed on his company. These cases are only the tip of the iceberg. It is necessary for the Administration to strengthen enforcement measures to penalize unscrupulous employers …… don't look at me, Mr Jeffrey LAM, I am not talking about you …… on the premise of not affecting our objection to the MPF scheme and replacing it with a universal retirement protection scheme, and based on our consideration of protecting all MPF contributors, we do not oppose the Government's measures in improving the regulatory regime for intermediaries, especially in enhancing supervision of the tactics and methods of intermediaries in selling and promoting MPF products, with a view to preventing the recurrence of incidents of massive mis-selling like the Lehman Brothers minibonds incident.

The People Power will abstain from voting at the Second and Third Readings. We will abstain from voting on the amendments as well. Our stance

is very clear. We insist on abolishing the MPF scheme. We advocate the implementation of a universal retirement protection scheme. Regardless of which approach we are going to adopt, we hope that each of our elders will have a monthly payment to meet their basic living expenses after reaching the age of 65, which will at least ensure that they can lead a dignified and financially secured life in their old age. This is the due responsibility of an affluent society, an affluent treasury and this Government of ours. Living in a capitalist society, we often emphasize that we need to improve our livelihood through our own efforts, and we need to plan for our old age when we are young. This was what appeared on the website of the Social Welfare Department (SWD) in the past. When I was elected a Member in 2008, I asked Secretary Matthew CHEUNG to delete it. It is often said that our elderly did not plan for their old age when they were young, and are now relying on the Government to provide for them …… the SWD actually dared to display such remarks. Does the Secretary still remember this? It was later deleted. The entire governance mindset of the Government is — providing welfare is a kind of almsgiving. Sorry, providing welfare is not a kind of almsgiving. Providing welfare is a means to stability preservation; the end is the people.

If a free society cannot help the many who are poor, it cannot save the few who are rich. It was said by John F Kennedy. This is a very clear concept of social democracy, and a solution to preserving stability in society. When the Gini Coefficient of a society reaches 0.537, there will be riots if it goes up to six. Does the Secretary know what a riot is? Those who had experienced the 1967 riot know it was a so-called riot induced by a political movement. In the event of a riot, the wealthy people will leave one after another. Buddy, you will not be able to save yourself. Your mansions at the Deep Water Bay, Clear Water Bay will certainly be surrounded by people. Someone will throw bombs at them. It is scary just to think about such a scene. If we talk about stability preservation, we must create a society in which the elderly can have security and the widowed, the single and people with disabilities are all cared for. This is stability preservation. It is not that the Government does not have money. Only that it always tries to hatch some "unworkable plans". Money has been injected into the MPF schemes by the Budget for two consecutive years. However, wage earners can only take the money at the age of 65. This proves to be one of the "unworkable plans". Thus, we firmly believe that this MPF scheme will not be of any help to providing universal retirement protection. I hope that the Government will think twice about this. And I hope that the new Government

will readily accept good advice by implementing universal retirement protection. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. This debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I would like to thank Mr WONG Ting-kwong, Chairman of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 (the Bills Committee) and other members for their detailed scrutiny of the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 (the Bill). The Bills Committee has put forward many valuable suggestions to perfect the Bill. We have introduced some amendments after taking on board the views of the Bills Committee and discussing with The Law Society of Hong Kong on its draft proposals. I will move those amendments at the Committee stage.

I believe Members will support the implementation of the Employee Choice Arrangement (ECA) as soon as possible to boost market competition, so as to put more pressure on trustees to lower their fees. Although employers have all along been the main target for sales and marketing activities in relation to Mandatory Provident Fund (MPF) schemes, it is anticipated that sales and marketing activities targeted at 2.5 million employees and self-employed persons by trustees through intermediaries will turn active upon the implementation of ECA. The major objective of the Bill is to introduce a statutory regulatory regime for MPF intermediaries to replace the existing administrative arrangement for the regulation of their MPF sales and marketing activities, so as to ensure effective regulatory arrangement of MPF intermediaries is in place upon the implementation of ECA for the protection of the rights and interests of MPF scheme members.

Specifically, a regulated activity of MPF intermediaries is clearly defined in the Bill to mean inviting or inducing, or attempting to invite or induce, another person to make a material decision on MPF schemes; or giving advice on specified matters. It is further stipulated in the Bill that it will be an offence for anyone other than a registered MPF intermediary to carry on a regulated activity. Regarding registered MPF intermediaries, the Bill provides for a comprehensive registration system, which includes eligibility for and procedures of registration, conduct requirements for registered intermediaries, corresponding supervision and investigation powers, disciplinary sanctions and appeals mechanism.

In terms of the regulatory regime, having considered the fact that the core business of most MPF intermediaries are now in the banking sector, insurance sector and securities sector and MPF sales and marketing activities are only incidental to their main lines of business, and that they are subject to the direct supervision of the Hong Kong Monetary Authority (HKMA), the Office of the Commissioner of Insurance (OCI) and the Securities and Futures Commission (SFC) respectively, the Bill provides for the continued adoption of the existing "institution-based" regulatory approach and makes improvement to the effective deployment of regulatory resources. As practitioners in the sectors are familiar with the current regulatory approach and not necessary to adapt afresh, this regulatory arrangement can minimize the compliance cost. Moreover, to facilitate the existing MPF intermediaries in moving to the new statutory system, the Bill also provides them with a two-year transition arrangement.

In terms of the actual operation, the Monetary Provident Fund Schemes Authority (MPFA) will be the authority to administer the registration of MPF intermediaries and issue guidelines on compliance with statutory requirements applicable to registered MPF intermediaries. The HKMA, OCI and SFC will be given the statutory role as front-line regulators (FRs) responsible for the supervision and investigation of MPF intermediaries whose core business is in banking, insurance and securities respectively. These FRs will pass the information collected in accordance with the requirements specified in the Bill for the consideration of the MPFA which is the sole authority to impose disciplinary sanctions. Taking into account the information and the representation of the intermediary, the MPFA will impose disciplinary sanctions if misconduct of the intermediary concerned is confirmed.

In the course of scrutiny by the Bills Committee, members have expressed particular concern about how best regulatory consistency can be ensured among different regulators and how a level playing field can be provided for MPF intermediaries of different sectors. We have explained to the Bills Committee that the Government, MPFA and FRs will take a number of relevant measures, including the MPFA will be the sole authority to determine whether MPF intermediaries have committed misconduct and to impose disciplinary sanctions; all appeals against any registration and disciplinary decisions made by the MPFA with regard to MPF intermediaries will be handled singly by the independent Mandatory Provident Fund Schemes Appeal Board; other than the legislation, a Memorandum of Understanding will be signed between the MPFA and all the FRs to agree among them the detailed arrangement for enforcement of the powers and functions conferred on them; a mechanism for regular liaison will be established for the MPFA and all the FRs to enhance communication; and an independent Process Review Panel will be established to regularly review the enforcement procedures of the MPFA and the FRs to ensure consistent internal process for the exercise of supervision and investigation powers. Moreover, to facilitate scheme members in lodging complaints, the MPFA will receive all complaints on MPF sales and marketing activities as a one-stop shop.

The second major objective of the Bill concerns the establishment of an E-platform. With the implementation of ECA, it is anticipated that the volume of transfers of accrued benefits may rise significantly. The Bill empowers the MPFA to establish an E-platform to promote accuracy and security for transfers, and to reduce processing time. Moreover, the third major objective of the Bill is to add an amendment in response to the public concern about default on contribution by employers. It will be an offence if employers fail to comply with a court order for the payment of arrears in MPF mandatory contributions and contribution surcharges.

Having taken on board the views of the Bills Committee, I will move a number of amendments on the regulatory arrangement for MPF intermediaries at the Committee stage, which include the clear stipulation that intermediaries should keep proper records to facilitate regulators in confirming whether intermediaries comply with the statutory conduct requirements, and also the clear stipulation that after the MPFA has made a disciplinary order against a regulated

person, it can disclose to the public details of its decision, including the reasons for which the decision was made and any material facts relating to the case. These amendments can provide better protection for scheme members and enhance enforcement transparency. Moreover, having made reference to the views of the Bills Committee and the industry, the Government and the MPFA have proposed some technical amendments to individual clauses to facilitate the actual operation of the industry without any impacts on the interests of scheme members.

President, on the whole, the Bill, together with the amendments I shall propose later at the Committee stage, has fully considered and balanced the need for protection of scheme members and the rationality of the various regulatory requirements. I will later explain in detail why the Government does not agree to the two amendments proposed by Mr KAM Nai-wai and another proposed by Mr WONG Sing-chi.

President, at the scrutiny stage, the Bills Committee has held in-depth discussions on several temporary fee waivers proposed in the Bill, including whether it will make some sectors mistake the waiver as a permanent arrangement. Therefore, I wish to take this opportunity to explain once again in detail our consideration and position. Under the existing regulatory arrangement for MPF intermediaries, the MPFA does not have any statutory power to charge regulated persons any relevant fees or charges, and so it has not charged such fees. During the consultation process when the Bill was being drafted, different industry participants raised the concern about the impact of fees under the statutory regime in conjunction with other costs of implementing the new regime. Having considered the relevant factors, the MPFA considered it appropriate to waive fees during the initial period to alleviate doubts of the industry and to enable the industry to better adapt to the new statutory regulatory regime for MPF intermediaries. This temporary arrangement can also enable the MPFA to assess the actual regulatory costs for purposes of determining appropriate fee levels after the formal implementation of the new regime. In fact, during the discussion on this issue with the industry, the MPFA has made it clear that fees will be levied after the initial period. I reiterate that the waiving of fees is just a short-term measure. The MPFA will review and propose appropriate fees for operation of the MPF intermediary regime on a cost-recovery basis after the initial stage of

implementation of the statutory regime. In future, proposals concerning fees will also go through the process of consultation and legislative procedures.

President, the Bill and the amendments proposed by the authorities have gained the support of the Bills Committee. I implore Members to support the Bill and the amendments proposed by the Administration to allow ECA and the new statutory regulatory regime for MPF intermediaries to take effect from 1 November this year.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2) BILL 2011

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011.

CLERK (in Cantonese): Clauses 1 to 6, 14, 17, 18, 23 to 26, 28 and 29.

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clauses 7 to 12, 15, 16, 19, 22 and 27.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move the amendments to the clauses read out just now, as printed in the paper circularized to Members.

Clause 13 adds new Part IVA to the Mandatory Provident Fund Schemes Ordinance (MPFSO) to regulate sales and marketing activities, and the giving of advice, in relation to MPF schemes. It also empowers front-line regulators (FRs), namely, the Insurance Authority, the Hong Kong Monetary Authority and the Securities and Futures Commission to carry out routine inspection and investigation.

In Part IVA, the Mandatory Provident Fund Schemes Authority (MPFA) is charged with functions relating to the continuing training requirements, annual fees and annual returns of the intermediaries but Part IVA does not confer corresponding inspection and investigation powers on the MPFA. I move amendments to clauses 9 and 12, so that the MPFA can continue to exercise the inspection and investigation powers under the existing MPFSO and follow up the aforementioned matters.

Clause 15 seeks to regulate the disclosure of information obtained by the MPFA and FRs in the exercise or performance of functions, and the disclosure of information obtained by prescribed persons under the Ordinance. I move an amendment to this clause to revise the criteria on the mutual disclosure of information between the MPFA and FRs for purposes other the regulation of MPF intermediaries, so as to bring them in line with those under the Securities and Futures Ordinance.

Meanwhile, the amendment also introduces regulation on the disclosure of information obtained on a regulated person who is given a notice in writing of the disciplinary orders against him according to new clause 34ZZ(2)(a).

I move amendments to other provisions, that is, clauses 7, 8, 16, 19, 22 and 27, which are mainly technical amendments, including some which are intended to address the views on drafting expressed by members of the Bills Committee. The Bills Committee has agreed to the aforementioned amendments, so I hope Members can lend their support to them and pass them.

Thank you, Chairman.

Proposed amendments

Clause 7 (see Annex III)

Clause 8 (see Annex III)

Clause 9 (see Annex III)

Clause 10 (see Annex III)

Clause 11 (see Annex III)

Clause 12 (see Annex III)

Clause 15 (see Annex III)

Clause 16 (see Annex III)

Clause 19 (see Annex III)

Clause 22 (see Annex III)

Clause 27 (see Annex III)

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(Mr LEUNG Kwok-hung stood up)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): I do not wish to speak. Please do a headcount.

CHAIRMAN (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the Secretary for Financial Services and the Treasury ……

(Mr WONG Yuk-man raised his hand to indicate his wish to speak)

CHAIRMAN (in Cantonese): Mr WONG Yuk-man, please.

MR WONG YUK-MAN (in Cantonese): During the joint debate on the Government's amendments, I read the amendments to the relevant clauses and found something very strange which I do not quite understand. Since the Secretary is in this Chamber, I would like him to explain this to me, as I am rather stupid.

The amendment proposed to clause 7(2) reads, "In the proposed section 6H(8), by deleting 'the Securities and Futures Commission, the Monetary Authority, and the Insurance Authority' and substituting 'the Insurance Authority, the Monetary Authority, and the Securities and Futures Commission'." Chairman, do you find anything wrong here? Those three bodies are the same, just that they are listed in a different order. Under the original section 6H(8), they are listed in the order of "the Securities and Futures Commission, the Monetary Authority and the Insurance Authority", whereas the amendment only proposes to change their order by starting with "the Insurance Authority", to be followed by "the Monetary Authority" and "the Securities and Futures Commission".

What meaning is there in revising the order of their listing? What meaning is there in terms of law in replacing "A, B and C" by "C, B and A"? It really beats me, and I may be too stupid. What Authority is it? It is "the Insurance Authority", and in the amendment it is also "the Insurance Authority"; in the original section, it is "the Monetary Authority", and in the amendment it is also "the Monetary Authority"; and in the original section, it is also "the

Securities and Futures Commission", so what is the difference? I have seriously put on my reading glasses to read it. I really cannot understand it. Secretary, do not just cup your chin. Can this be an amendment? Our amendments were regarded as frivolous …… Mr WONG Kwok-hing, do you see what it means by frivolous and meaningless? The Government's amendment is telling you what it means. Have you seriously read the amendments to the Bill in detail? Mr WONG Kwok-hing, you are the one with unmatched insights. Our amendments are criticized as meaningless and frivolous but, buddy, we should still be given an explanation.

Perhaps he cannot give any explanation. I am not going to filibuster here, and I will go on. Let me admit in the first place that I am stupid, so you must definitely explain to me why, with regard to the same three bodies, there should be this amendment which proposes only to revise their order from "A, B and C" to "C, B and A". I really do not understand it, because I am stupid. In putting "the Securities and Futures Commission" at the end of the list and "the Insurance Authority" in the first place, is it meant to reflect their precedence? This is meaningless.

A similar proposal is also made in other amendments. The same amendment is proposed to section 34E under the definitions of "industry regulator" and "prescribed person", and also to section 42AA(4) and section 42B(3) under the definition of "specified entity". With regard to "prescribed person" and "specified entity", I have two questions relating to law drafting. Perhaps my mind is dazed and reeling with all the recent meetings and my thoughts are rather confused — I am actually just a little bit behind the Chairman in terms of logic, but I am not doing too badly — I really cannot understand it even though I have read it over and over again.

I have two questions. First, if the order of the listing of these three bodies, namely, "the Insurance Authority, the Monetary Authority and the Securities and Futures Commission", is so important, why are they listed in a different order for a number of times in the amendments? I really have no idea how the Bills Committee had dealt with this. As the definitions of these three bodies are mentioned in various clauses in the amendments, is there a better way of drafting, rather than providing their definitions in various clauses? You do not understand what I mean, do you? "Brother K C", professor, are you in a muddle about what I am saying? So these are the Government's amendments. It has

taken me five minutes to speak on them, and it is meaningful. Tell me, why is the order in which these three bodies are listed so important? Chairman, we will not stray off from the question. Just take a look at the amendment proposed by the Government to clause 7(2) and then look at the original way that the three bodies …… So, I hope that the Secretary can specifically explain this to me later on.

In section 6H of the Mandatory Provident Fund Schemes Ordinance, what is the original requirement regarding the guidelines? The Authority (meaning the Mandatory Provident Fund Schemes Authority) may issue guidelines. There is a problem with the word "may" and so, through this amendment exercise, the Government proposes to amend the requirement concerning the guidelines under section 6H to "Authority must issue guidelines". This is OK, and I understand it. This amendment only requires the Mandatory Provident Fund Schemes Authority (MPFA) to consult these three bodies if it has decided to issue guidelines. We do not oppose this point, but we will question why, other than these three bodies that need to be consulted, the target of consultation cannot be broadened to include other — let us not use the word "stakeholders" — relevant organizations, academics or industries. Why is consultation not conducted with the industries and academics, but only with these three bodies?

If this Bill and the Government's amendments are passed, section 6H will still be inadequate compared with the Competition Ordinance just enacted in the sense that the target of consultation does not include the Legislative Council. Of course, the Government can say that the Bills Committee was involved in the drafting of the provisions, but that is a different thing. The provision provides that the three bodies must be consulted if the MPFA proposes to issue guidelines. In comparison, the way that the Competition Commission shall publish the guidelines is better, and why did the same Government not consider adopting the same approach? The Secretary has not proposed the use of the Internet and other electronic networks. These are viable options which are most convenient, and they are also what people are already doing now. Could it be that Gregory SO is smarter than K C CHAN? I do not think so. I have known K C CHAN for a much longer time than Gregory SO, and I think K C CHAN should be smarter than Gregory SO. Could it be that your aides are not as smart as those of Gregory SO? If Gregory SO is not as smart as you are, then his aides must be smarter than yours.

There is another point that I wish to make, and again, I have to talk about the Competition Ordinance as I like to draw comparisons. That the two Directors of Bureau can remain in office in LEUNG Chun-ying's Government is certainly proof of their incomparable competence. Of course, I do not wish to say that talented people would not join the ranks of one who only has lowly aides under his command, for this ……

CHAIRMAN (in Cantonese): Mr WONG, you are straying off from the question.

MR WONG YUK-MAN (in Cantonese): …… seems to be a bit insulting to Prof K C CHAN. The Competition Ordinance provides that the guidelines are not subsidiary legislation. However, on the other hand, section 6H(3) of this Ordinance provides that "…… persons specified in the guideline (are required) to give to the Authority information or documents of a kind specified in the guideline", but on the other hand, section 6H(6) provides that "任何人並不會僅因其違反根據本條發出的指引 ……" — These Chinese texts are indeed so difficult to read — "任何人並不會僅因其違反根據本條發出的指引而招致民事或刑事法律責任" (A person does not incur a civil or criminal liability only because the person has contravened a guideline issued under this section.) People who have asthma certainly cannot finish this complete sentence in Chinese. Such standard of Chinese is "crap" indeed, but alas, this is found in the statutes.

Meanwhile, section 6H(3) provides that "…… persons specified in the guideline (are required) to give to the Authority information or documents of a kind specified in the guideline" but on the other hand, section 6H(6) provides that he will not, purely for the reason of contravention ……

CHAIRMAN (in Cantonese): Mr WONG, what you are reading out now is the original provisions of the Ordinance.

MR WONG YUK-MAN (in Cantonese): No, I am making a comparison. Chairman, I certainly know what I am reading, and I have written them down clearly. I am drawing a comparison, and what I mean is that the provisions are

confusing. If they are confusing, it means that there are problems with the legislation. Of course, I will still support the Government. For example, regarding the amendment to section 6H of replacing "may" with "must" as I have just said, I think it is very good, but this is the only point I support.

Chairman, I hope that the Secretary can seek help later or now by asking the officials beside him to explain why such a slight change in the listing order of these three bodies from "A, B and C" to "C, B and A" can constitute an amendment. A lot of resources, manpower and time are all wasted in proposing such an amendment, and I think such wastage is unnecessary. All in all, when we look at this …… Besides, Chairman, I have not finished yet, and I am looking up some information. I feel a bit dizzy recently and it takes me longer to digest, and I hope you will not ……

(Mr Albert CHAN stood up)

MR WONG YUK-MAN (in Cantonese): …… you will speak first? Fine, go ahead. OK.

CHAIRMAN (in Cantonese): Mr Albert CHAN, do you wish to speak?

MR ALBERT CHAN (in Cantonese): Chairman, insofar as the relevant amendments are concerned, I would like to point out the Government's double standard and unreasonableness in work because, as pointed out by Mr WONG Yuk-man just now, the Government's amendments merely seek to reverse the order. I certainly hope the Government can tender an explanation.

Chairman, regarding the amendments to be proposed by us tomorrow in relation to the "five Secretaries of Departments and 14 bureaux", which was dealt with by you earlier, please allow me to give a brief account of the comments made by the Secretary for Constitutional and Mainland Affairs on our proposed amendments to show that the Government's proposed amendments today actually make the same mistake as pointed out by the Government in its criticism. As pointed out by Mr WONG Yuk-man just now, the Government has accused the amendments to be proposed by us tomorrow of being nonsense and frivolous. In

fact, regarding my proposed amendments to the Policy Bureaux related to the "five Secretaries of Departments and 14 bureaux", I will read them out in English because the Government's reply to me is in English ……

CHAIRMAN (in Cantonese): Mr CHAN, please wait until you move amendments to the relevant resolution when it is dealt with by this Council tomorrow to express these views.

MR ALBERT CHAN (in Cantonese): Chairman, I am just comparing ……

CHAIRMAN (in Cantonese): Please confine your speech to the clauses currently being dealt with.

MR ALBERT CHAN (in Cantonese): Chairman, it is precisely because, like the amendments to be proposed by me tomorrow, these amendments merely seek to reverse the order of several bodies. My amendments, however, were criticized by the Secretary for Constitutional and Mainland Affairs for being frivolous and trivial when the Government raised objection to the amendments to be proposed by me tomorrow, despite the fact that amendments of a similar nature will be proposed by another Policy Bureau. Judging by the Government's attitude, if its stance is consistent, these amendments should similarly be considered as frivolous and trivial, right? For instance, my amendment tomorrow seeks to amend "Technology and Communication" as "Communications and Technology". Like the amendment proposed by the Government today to reverse the order of A, B and C, they are actually the same in nature. One of my proposed amendments tomorrow seeks to amend "Housing, Planning and Lands Bureau" as "Housing, Lands and Planning Bureau" ……

CHAIRMAN (in Cantonese): Mr CHAN, you are repeating your argument.

MR ALBERT CHAN (in Cantonese): No, Chairman, I am not repeating my argument, I am merely trying to prove ……

CHAIRMAN (in Cantonese): You are repeating your argument. The two names ……

(Mr LEUNG Kwok-hung stood up)

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, a point of order. I request a headcount again. Both of you need not argue. What is the point of arguing?

CHAIRMAN (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

DR MARGARET NG (in Cantonese): Chairman, just now I heard you say to Mr Albert CHAN that we would deal with that resolution tomorrow. But we have been feeling puzzled about when this resolution will be debated.

CHAIRMAN (in Cantonese): Dr NG, please repeat your point. I did not quite catch it.

DR MARGARET NG (in Cantonese): Chairman, I was asking when the resolution proposed by the Government under section 54A of Cap. 1 of the Laws of Hong Kong will be debated. Chairman, you told Mr Albert CHAN just now that it would be debated tomorrow, and we have received the Agenda on which it is written that the debate will be held tomorrow. Meanwhile, I have made enquires with the Clerk time and again about whether we will continue to discuss these Bills or we will discuss that resolution tomorrow. Chairman, as we need to prepare scripts for our speeches, I am concerned that if it will be suddenly debated tomorrow, I may not be able to make the preparations. If we really have to debate it tomorrow, we can only burn the midnight oil tonight.

CHAIRMAN (in Cantonese): Dr NG, while I said that it would be debated tomorrow, I did not really mean tomorrow, as I was mainly asking Mr Albert CHAN to wait until the debate on the resolution to put forward his views when he will move his amendments to the resolution. But I have just been informed by the Government that the relevant government official will move a motion under Rule 91 of the Rules of Procedure to suspend Rule 18, so that this Council can deal with the resolution before the Bills.

Certainly, after the official moved a motion to suspend Rule 18 of the Rules of Procedure, the motion has to be passed in a vote taken in this Council before it can take effect. If this motion is passed, I can, as requested by the Government, deal with the resolution before the Bills. But if the motion moved by the Government is negatived, we will have to deal with all the Bills first in accordance with Rule 18 of the Rules of Procedure.

DR MARGARET NG (in Cantonese): But then, does it mean that notice is dispensed with this motion which seeks to "jump the queue"? If it is not required to give notice, is it fair to Members?

CHAIRMAN (in Cantonese): The Secretariat should be sending notification to Members now. Under the Rules of Procedure, the Government may give notice prior to this motion, but the President's consent can be sought for such notice to be waived. The Chief Secretary for Administration has written to me explaining why they are unable to give notice in time to inform Members that this motion will be moved tomorrow. Members should be receiving the notice shortly.

(The summoning bell stopped)

DR MARGARET NG (in Cantonese): Chairman, do Members have a chance to express their views to you? This is a very important motion and, as you know, it has been discussed by a number of panels, so Members obviously have a lot to say on it. If the Government can move this motion without having to give notice for it, the quality of debate will decline. Chairman, I hope you can consider the views of Members.

CHAIRMAN (in Cantonese): The Government's motion has to be debated and passed in a vote taken in this Council before it can take effect.

A quorum is now present. Does any other Member wish to speak?

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): Chairman, I have not finished my speech. ……

CHAIRMAN (in Cantonese): Mr Albert CHAN, please continue.

MR ALBERT CHAN (in Cantonese): LEUNG Chun-ying's "executive hegemony" is overriding the needs of all other social policies and ordinances, and the Legislative Council is obviously treated by him as his domestic slave. His personal interest is placed before everything; the expansion of his personal power is put over people's livelihood, the well-being of the public ……

CHAIRMAN (in Cantonese): Mr CHAN, you have strayed from the question.

MR ALBERT CHAN (in Cantonese): …… thus he must be condemned.

Chairman, insofar as these amendments are concerned, as pointed out just now, the Government is allowed to reverse the choice of words or the order of names, but when someone else does so, he or she will be criticized for being frivolous and trivial. The Government's ugliness is exposed completely, so to speak.

As regards the amendment to clause 8, I think the choice of words in the Chinese text is not up to standard. When it comes to my Chinese standard, Yuk-man has repeatedly criticized me for my poor standard of Chinese. Nevertheless, I think the original Chinese version of clause 8 is perfectly clear.

It reads, "凡管理局為施行本條例某條文而指定某電子系統，如管理局合理地認為有需要，可暫停為該條文的施行而使用該電子系統。".

Nevertheless, the last sentence is amended as "該電子系統為該條文的施行而被使用". I wonder if the expression "被使用" (meaning "being used") is adopted under the influence of the extensive use of the adjective "被自殺" in connection with the numerous rumors recently circulating on the Internet about LI Wang-yang's being "suicided" ("被自殺"). The expression "被自殺" is actually satirical. How can an act of committing suicide be described as that of "being suicided"? In my opinion, it is neither fish nor fowl for the clause to be amended as "被使用". The meaning of the original clause is already perfectly clear. Secretary, what is wrong with the expression "而使用該電子系統"? Given his profound understanding of Chinese, Yuk-man might as well comment on the wording again.

I absolutely understand that this proposed amendment is basically a translation from English. This is also what the Government has been repeatedly criticized for by us. Even after the reunification, government officials might still be preparing an English version before writing a paper for meetings. As the mindset of many government officials is still predicated on the logic of English, the sentences they use in answering questions are often poor or awkward. The same is true of provisions in law. Since such provisions are drafted for Hong Kong people, the Government should use Chinese sentences to whom Hong Kong people are accustomed rather than rigid translations from English.

Secretary, why should the Chinese text be rendered as "被使用"? I certainly understand that, insofar as the choice of English words for the entire provision is concerned, it was originally intended to provide for the use of the relevant "electronic system". But, insofar as the provision *per se* is concerned, "使用該電子系統" is actually clearer and more fluent. Chairman, this can be regarded as another clear example proving that during the enactment of bilingual legislation in Chinese and English, the Government still prefers English to Chinese. As English is regarded as more important than everything, similar mistakes can be found when provisions are amended.

This phenomenon is more common during the drafting stage. I wonder if any Member had advised the Government to introduce this amendment during the scrutiny by the Bills Committee. I wonder if any Member can tell us whether

this is an opinion put forward by a certain Member at that time. Should this be the case, that Member "warrants a good beating", because the original provision is more consistent with the general principle governing the use of Chinese words. On the contrary, it becomes even worse after amendment.

The situation mentioned just now can be found in subsection (5) under clause 8. Similar problems can also be found in the amendment to section 6KA(6), in which the provision is amended as "被使用". The original provision, which reads "根據第(5)款暫停使用指定電子系統的決定", is amended as "根據第(5)款暫停指定電子系統被使用的決定", which is very awkward, too. As "being used" is used in the English text, this is like replacing "being used" with "uses". This problem might have occurred when the English text was translated into Chinese. Hence, this is, likewise, a problem involving English to Chinese translation. Such an abnormality will recur when a verb used in the English text is translated into Chinese.

Chairman, similar problems can be found in subsequent provisions, too. To prevent others from accusing me of filibustering, I will not dwell on such problems one by one again. But basically, the language problems I mentioned just now will occur again and again whenever a Bill is amended. The Legal Adviser of the Legislative Council might need to set up a Chinese expert team to scrutinize the Chinese texts of all provisions in order to correct these mistakes which were already in existence during the British Hong Kong era. It has been 15 years since the reunification. I hope the preference of English to Chinese and the occurrence of abnormal Chinese expressions can be ameliorated.

CHAIRMAN (in Cantonese): Does any other Member wish to speak?

MR WONG YUK-MAN (in Cantonese): As "Hulk" has reminded me that his remark on clause 8 is very clumsy, I will make it a bit clearer. Professor, listen to me!

Let me begin by discussing the proposed amendment of adding section 6KA (Designation of electronic system by Authority). For the time being, I will not comment on its wording. As the Chinese expression power of "Hulk" is relatively poor, Members might not entirely understand what he was

talking about just now. After my explanation later on, Members will understand what he was talking about.

Professor, the use of electronic systems is a general trend. In order to ensure accuracy and ease of regulation, Chairman, it is necessary and essential for the Authority to designate an electronic system. While I take no issue with subsections (1) to (4) of section 6KA, subsection (4) specifies to the effect that the Authority may recover from a person who uses a designated electronic system any related fee or charge paid or payable by the Authority …… Oh, my goodness! Insofar as the principle is concerned, I understand what it means and find it reasonable. But, professor, subsection (4) does not provide for any specific calculation method, nor is there any mechanism to stop ― Chairman, have you turned to that page ― the person who uses that electronic system from unreasonably passing on the fee to persons making contributions.

Let me come back to the part mentioned by "Hulk" just now. The Government has proposed an amendment in the Chinese text to delete "為該修文的施行而使用該電子系統" and substitute "該電子系統為該修文的施行而被使用". This is where "被使用", as he mentioned just now, is found. Everyone is staring at me. Do you know what I am talking about? Do you have the text of the provision? Legislative Council Members must be competent. Mr LAU Kong-wah, you should not watch television ……

CHAIRMAN (in Cantonese): Mr WONG, you have read out one word wrong. It should be "條文" rather than "修文".

MR WONG YUK-MAN (in Cantonese): What?

CHAIRMAN (in Cantonese): It should be "條文" rather than "修文".

MR WONG YUK-MAN (in Cantonese): It should be "條文". I am going to say "amended provision", do you understand? I have only omitted one word. Chairman, you are really very smart.

CHAIRMAN (in Cantonese): You read "條" wrongly as "修".

MR WONG YUK-MAN (in Cantonese): No, because my eye has a serious problem. Do you know that? What I saw was "修" instead of "條". You and I are suffering the same pain. Now I can only make a wild guess. Thanks to the Chairman for the correction. Let me read it out again. Can I read it again?

"為該條文的施行", am I right ……

CHAIRMAN (in Cantonese): Please do not repeat Mr Albert CHAN's argument.

MR WONG YUK-MAN (in Cantonese): Fine, I have to thank …… I have to explain this because his explanation was unclear. Chairman, it is almost time for the meeting to be adjourned. I can speak for two more minutes at the most. Do you still have to make things difficult for me?

The wordings of amendments to Bills or amendments *per se* are invariably hard to understand. The abuse of passive voice in law drafting has made provisions in law difficult to comprehend. Chairman, today, after 20 years of development in enacting bilingual laws …… Chairman, it has been 20 years, I will have passed away in another 20 years, though you might still be here.

Despite 20 years of development in bilingual legislation, law drafting in Hong Kong is still — his comment just now was unclear — we express regrets and dissatisfaction about provisions in law being drafted in English first and then translated into awkward Chinese. How much food and time has been wasted after the passage of 20 years?

Despite 20 years of development in bilingual legislation, laws are still first drafted in English and then translated into awkward Chinese. But the Chinese texts are so unreadable that they are hardly comprehensible. When a person who does not know how to read English provisions has to read the Chinese versions, he will easily be misled by those Chinese provisions and unknowingly break the law. How flagrant it is! Nevertheless, this is not taken seriously.

In fact, such circumstances are commonplace. Hence, if I cease to be a Legislative Council Member, I can make a living by writing a Chinese book or two targeting these provisions in law. It is better than suffering wrong here and then bearing the bad consequences of feeling unwell all over the body as a result of filibustering in this Council.

Chairman, these problems are common in longer and more complex enactments. Nevertheless, this approach is obviously in violation of the arrangement made in the Basic Law regarding official languages. Article 9 of the Basic Law provides that "in addition to the Chinese language, English may also be used as an official language". Secretary, do you understand the meaning of this Article? It means that the Chinese language should take precedence with the return of sovereignty. Article 9 of the Basic Law has made this very clear, but actually I also find "in addition to the Chinese language (除使用中文外)" problematic, for it is redundant to use "外" in addition to "除". Although "除了…… 之外" is a common expression, I do not think "之外" should be used in addition to "除了", right? Should "之外" be used after "除"?

By the expression "in addition to the Chinese language, English may also be used", it means that Chinese language should take precedence over English, though "English may also be used as an official language" is added, too. The meaning of Article 9 of the Basic Law is extremely clear that the Chinese language and English should play the primary and secondary roles respectively. After 20 years of development in bilingual legislation, laws are still drafted in English and then translated into awkward Chinese. This is why we have to bear all these consequences today. Time is up.

NEXT MEETING

CHAIRMAN (in Cantonese): It is now one minute past 10 o'clock. I now adjourn the Council until 11 am on 20 June 2012.

Adjourned accordingly at two minutes past Ten o'clock.

Annex III

Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2011

Committee Stage

Amendments moved by the Secretary for Financial Services and the Treasury

Clause	Amendment Proposed
7(2)	In the proposed section 6H(8), by deleting "the Securities and Futures Commission, the Monetary Authority, and the Insurance Authority," and substituting "the Insurance Authority, the Monetary Authority, and the Securities and Futures Commission,".
8	In the proposed section 6KA(5), in the Chinese text, by deleting "為該條文的施行而使用該電子系統" and substituting "該電子系統為該條文的施行而被使用".
8	In the proposed section 6KA(6), in the Chinese text, by deleting "使用指定電子系統" and substituting "指定電子系統被使用".
9(2)	By deleting "Part IVA)" and substituting "sections 34L, 34ZL and 34ZM), the requirements imposed under this Ordinance, or the conditions imposed under this Ordinance (except section 34X),".
10	By deleting "Part IVA)" and substituting "sections 34L, 34ZL and 34ZM), the requirements imposed under this Ordinance, or the conditions imposed under this Ordinance (except section 34X),".
11	By deleting "Part IVA)" and substituting "sections 34L, 34ZL and

34ZM), the requirements imposed under this Ordinance, or the conditions imposed under this Ordinance (except section 34X),".

12 By deleting "Part IVA)" and substituting "sections 34L, 34ZL and 34ZM), a requirement imposed under this Ordinance, or a condition imposed under this Ordinance (except section 34X),".

13 In the proposed section 34E, in the definition of ***industry regulator***, by deleting paragraphs (a), (b) and (c) and substituting—

"(a) the Insurance Authority;

(b) the Monetary Authority; or

(c) the Securities and Futures Commission;".

13 In the proposed section 34E, in the definition of ***prescribed person***, by deleting paragraph (a) and substituting—

"(a) in relation to the Insurance Authority, means a public officer employed in the Office of the Commissioner of Insurance;".

13 In the proposed section 34E, in the definition of ***prescribed person***, by deleting paragraph (c) and substituting—

"(c) in relation to the Securities and Futures Commission, means an employee of the Commission;".

13 In the proposed section 34E, in the definition of ***relevant insurance body***, by deleting "***body*** (有關保險業" and substituting "***broker body*** (有關保險經紀".

13 In the proposed section 34E, in the definition of ***Type B regulatee***, in paragraph (a)(iii) and (iv), by adding "broker" after "relevant insurance".

13 In the proposed section 34F(5)(c), in the English text, by deleting "particular registered scheme;" and substituting "registered scheme;".

13 By deleting the proposed section 34F(5)(d), (e) and (f) and substituting—

"(d) the amount of contributions (including voluntary contributions) to be paid to a particular registered scheme, or the amount to be invested in a particular constituent fund of a registered scheme;

(e) whether, or when, to transfer accrued benefits from a particular registered scheme to another particular registered scheme, or from a particular constituent fund of a registered scheme to another particular constituent fund of the registered scheme;

(f) the amount of accrued benefits to be transferred from a particular registered scheme to another particular registered scheme, or from a particular constituent fund of a registered scheme to another particular constituent fund of the registered scheme;".

13 In the proposed section 34F(5)(g), in the Chinese text, by adding "如此" after "何時".

13 By deleting the proposed section 34F(5)(h) and substituting—

"(h) the amount of benefits to be transferred from an occupational retirement scheme to a particular registered scheme;".

13 In the proposed section 34F(5)(j), by deleting "such a claim" and substituting "a claim mentioned in paragraph (i)".

13 In the proposed section 34G(1)(b), by deleting "except in section 34M(1)" and substituting "subject to section 34M(9)(a)".

13 In the proposed section 34G(2)(b), by deleting "except in section

34M(1),".

13 In the proposed section 34H(1)(a), by deleting "34T(5)(b)(i) or".

13 In the proposed section 34H(1)(b), by deleting "except in sections 34T(2)(a) and 34V(1)" and substituting "subject to section 34V(6)".

13 In the proposed section 34H(2)(a), by deleting "34T(5)(b)(i) or".

13 In the proposed section 34H(2)(b), by deleting "except in sections 34T(2)(a) and 34V(1),".

13 In the proposed section 34H(3)(a), by deleting "34T(5)(a)(i) or (b)(ii), 34U(7) or".

13 In the proposed section 34H(3)(b), by deleting "except in sections 34M(1)(b) and 34W(3)(a)" and substituting "subject to sections 34M(9)(b) and 34W(6)".

13 In the proposed section 34H(4)(a), by deleting "34T(5)(a)(i) or (b)(ii), 34U(7) or".

13 In the proposed section 34H(4)(b), by deleting "except in sections 34M(1)(b) and 34W(3)(a),".

13 In the proposed section 34I(1)(a), by deleting "34T(5)(a)(ii) or (b)(iii) or".

13 In the proposed section 34I(1)(b), by deleting "except in section 34ZD(1)" and substituting "subject to section 34ZD(5)".

13 In the proposed section 34I(2)(a), by deleting "34T(5)(a)(ii) or (b)(iii) or".

13 In the proposed section 34I(2)(b), by deleting "except in section 34ZD(1),".

13 In the proposed section 34I(3)(b), in the English text, by adding "principal" after "uses the".

13 In the proposed section 34J(2)(b)(i), by deleting "of the Securities and Futures Ordinance (Cap. 571)" and substituting "or 197(1) of the Securities and Futures Ordinance (Cap. 571), or is deemed to be suspended under section 197(4) of that Ordinance,".

13 In the proposed section 34J(2)(b)(ii), by deleting "that section" and substituting "that section 196(1)(i)(B) or 197(1), or is deemed to be suspended under that section 197(4),".

13 In the proposed section 34J(2)(c)(i), by deleting "of the Securities and Futures Ordinance (Cap. 571)" and substituting "or 195(1) of the Securities and Futures Ordinance (Cap. 571), or is deemed to be suspended under section 195(4) of that Ordinance,".

13 In the proposed section 34J(2)(c)(ii), by deleting "that section" and substituting "that section 194(1)(i)(B) or 195(1), or is deemed to be suspended under that section 195(4),".

13 In the proposed section 34K(1)(a) and (b), in the Chinese text, by deleting "中止" and substituting "終止".

13 In the proposed section 34K(2)(f)(i), by deleting "of the Securities and Futures Ordinance (Cap. 571)" and substituting "or 195(1) of the Securities and Futures Ordinance (Cap. 571), or is deemed to be suspended under section 195(4) of that Ordinance,".

13 In the proposed section 34K(2)(f)(ii), by deleting "that section" and substituting "that section 194(1)(i)(B) or 195(1), or is deemed to be suspended under that section 195(4),".

13 In the proposed section 34M(5)(a)(i), by deleting "otherwise than on subscription" and substituting "(excluding one that is made available on subscription only)".

13 In the proposed section 34M, by adding—

"(9) In subsection (1)—

(a) a reference to a principal intermediary does not include a person whose registration as a principal intermediary is suspended under this Part; and

(b) a reference to a subsidiary intermediary attached to a principal intermediary does not include a person—

(i) whose registration as a subsidiary intermediary is suspended under this Part; or

(ii) the approval of whose attachment to the principal intermediary is suspended under this Part.".

13 In the proposed section 34N(1), by deleting everything after "an offence" and substituting a full stop.

13 In the proposed section 34N, by adding—

"(1A) Subject to subsection (1B), a person who commits an offence under subsection (1) is liable—

(a) on conviction on indictment to a fine of $5,000,000 and

to imprisonment for 7 years and, in the case of a continuing offence, to a further fine of $100,000 for each day on which the offence is continued; or

(b) on summary conviction to a fine of $500,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of $10,000 for each day on which the offence is continued.

(1B) If a person contravenes section 34L(1) or (2) by carrying on regulated activities for another person in the course of acting as an employee, agent or representative of that other person, or for holding themselves out as so carrying on regulated activities, the person is liable—

(a) on conviction on indictment to a fine of $1,000,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of $20,000 for each day on which the offence is continued; or

(b) on summary conviction to a fine at level 6 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of $2,000 for each day on which the offence is continued.".

13 In the proposed section 34Q(5)(a), by deleting "registered intermediary" and substituting "regulated person".

13 In the proposed section 34Q(5)(b), by deleting everything after "particulars of" and substituting—

"—

(i) the registration of a person as a principal or subsidiary intermediary; or

(ii) the approval of an individual as a responsible officer.".

13 In the proposed section 34Q(6)(b), in the Chinese text, by adding "獲" before "接納".

13 In the proposed section 34Q(6)(b)(i) and (ii), in the Chinese text, by deleting "視" and substituting "推定".

13 In the proposed section 34Q(6)(b)(iii), in the Chinese text, by deleting "證據" and substituting "證明".

13 In the proposed section 34R, in the heading, by deleting "**as on-line record**" and substituting "**through internet**".

13 In the proposed section 34R, by deleting "in the form of an on-line record" and substituting "through the internet".

13 In the proposed section 34S(1)(e), by deleting "Division 5 or 6" and substituting "this Part".

13 In the proposed section 34S(2)(b)(ii), by deleting "and".

13 In the proposed section 34S(2)(b), by adding—

"(iia) if the registration of the principal intermediary as such is suspended under this Part—

(A) a note to that effect; and

(B) a note to the effect that section 34M(1)(b) does not apply to the subsidiary intermediary; and".

13 In the proposed section 34S(2)(b)(iii)(C), by deleting "Division 5 or 6" and substituting "this Part".

13 In the proposed section 34T(2)(a)(i), by deleting "to the Authority" and substituting "under section 34V(1)".

13 In the proposed section 34T(2)(a)(ii), by deleting "to the Authority" and substituting "under section 34W(1)".

13 In the proposed section 34T(2)(b)(i), by deleting "to the Authority" and substituting "under section 34U(1)".

13 In the proposed section 34T(2)(b)(ii), by deleting "to the Authority" and substituting "under section 34V(1)".

13 In the proposed section 34T(2)(b)(iii), by deleting "to the Authority" and substituting "under section 34W(1)".

13 In the proposed section 34T(3), by deleting "or (2)(a) or (b)".

13 By deleting the proposed section 34T(4)(b)(i)(A), (B) and (C) and substituting—

"(A) an accompanying application is made for the purposes of subsection (2)(a)(i), and the criteria for approval under section 34V(3) are satisfied; and

(B) an accompanying application is made for the purposes of subsection (2)(a)(ii), and the criteria for approval under section 34W(3)(b), (c) and (d) are satisfied; or".

13 By deleting the proposed section 34T(4)(b)(ii)(A), (B) and (C) and substituting—

"(A) an accompanying application is made for the purposes of subsection (2)(b)(i), and the criteria for approval under section 34U(4) (except paragraph (g)) are satisfied;

(B) an accompanying application is made for the purposes of subsection (2)(b)(ii), and the criteria for approval under section 34V(3)(a), (b) and (c) are satisfied; and

(C) an accompanying application is made for the purposes of subsection (2)(b)(iii), and the criteria for approval under section 34W(3)(b), (c) and (d) are satisfied.".

13 In the proposed section 34T(5), by deleting everything after ", the Authority" and substituting "must also grant the accompanying applications made for the purposes of subsection (2)(a) or (b).".

13 In the proposed section 34T(6), by deleting "under subsection (2)(a)" and

substituting "for the purposes of subsection (2)(a)".

13 In the proposed section 34T(7), by deleting everything after "Authority" and substituting "must give the principal applicant a notice in writing of the results of the application made under subsection (1).".

13 In the proposed section 34T(8), by deleting "(a) or (b)".

13 In the proposed section 34T(8), by deleting "or accompanying applications".

13 In the proposed section 34U(2), by deleting "to the Authority" and substituting "under section 34V(1)".

13 In the proposed section 34U(3), by deleting "or (2)".

13 In the proposed section 34U(4)(g)(i), by deleting "under" and substituting "for the purposes of".

13 In the proposed section 34U(4)(g)(ii), by deleting "subsection (6)" and substituting "section 34V(3)(a), (b) and (c)".

13 In the proposed section 34U(5), by deleting everything after "if" and substituting—

"—

(a) within 3 years immediately before the date of the application, the principal applicant has been registered as a subsidiary intermediary and that registration has been revoked; and

(b) the revocation, or the last revocation (if there is more than one), is not made under section 34ZP(4).".

13 By deleting the proposed section 34U(6).

13 In the proposed section 34U(7), by deleting everything after "also" and substituting "grant the accompanying application made for the purposes of subsection (2).".

13 In the proposed section 34U(8), by deleting "under subsection (2)" and substituting "for the purposes of subsection (2)".

13 In the proposed section 34U(9), by deleting everything after "results of" and substituting "the application made under subsection (1).".

13 By deleting the proposed section 34U(10).

13 In the proposed section 34U(11), by deleting "or (10)".

13 In the proposed section 34U(11), by deleting "or accompanying application (as may be applicable)".

13 By deleting the proposed section 34V(1) and substituting—

"(1) A person specified in subsection (1A) may apply to the Authority for approval of attachment of another person to the specified person for the purpose of carrying on regulated activities.

(1A) The person is—

(a) a principal intermediary; or

(b) a person who applies under section 34T(1) for registration as an intermediary for carrying on regulated activities.".

13 In the proposed section 34V(3), in the Chinese text, by deleting "附屬中介人隸屬有關主事中介人，但前提是" and substituting "的另一人隸

屬申請人，但前提是它信納".

13 In the proposed section 34V(3), by adding before paragraph (a)—

"(aa) that the other person is a subsidiary intermediary;".

13 In the proposed section 34V(3)(a), (b) and (c), by deleting "subsidiary intermediary" and substituting "other person".

13 In the proposed section 34V(3)(a), by deleting "principal intermediary" and substituting "applicant".

13 In the proposed section 34V(4), by deleting "subsidiary intermediary" and substituting "other person".

13 In the proposed section 34V, by adding—

"(6) In subsection (3)(aa), a reference to a subsidiary intermediary does not include a person whose registration as a subsidiary intermediary is suspended under this Part.".

13 By deleting the proposed section 34W(1) and substituting—

"(1) A person specified in subsection (1A) may apply to the Authority for approval of an individual as an officer with specified responsibilities in relation to the specified person.

(1A) The person is—

(a) a principal intermediary; or

(b) a person who applies under section 34T(1) for registration as an intermediary for carrying on regulated activities.".

13 In the proposed section 34W(3), by deleting "principal intermediary if" and substituting "applicant if".

13 In the proposed section 34W(3)(a) and (b), by deleting "principal intermediary" (wherever appearing) and substituting "applicant".

13 In the proposed section 34W(3)(b), in the Chinese text, by deleting "支持" and substituting "支援".

13 In the proposed section 34W, by adding—

"(6) In subsection (3)(a), a reference to a subsidiary intermediary attached to the applicant does not include a person—

(a) whose registration as a subsidiary intermediary is suspended under this Part; or

(b) the approval of whose attachment to the applicant is suspended under this Part.".

13 In the proposed section 34Y, in the heading, by deleting "**processing application etc.**" and substituting "**rejecting application, or imposing or amending conditions**".

13 In the proposed Division 5, in the heading, by deleting "**Status or**".

13 In the Chinese text, by deleting the proposed section 34ZC(1)(b)(ii) and substituting—

"(ii) 有任何作為某行業監督的甲類受規管者的資格被暫時撤銷；及".

13 In the proposed section 34ZD, by adding—

"(5) In subsection (1), a reference to a responsible officer does not include an individual whose approval as a responsible officer of the principal intermediary is suspended under this Part.".

13 By deleting the proposed section 34ZE(1)(d) and substituting—

"(d) a responsible officer of a principal intermediary ceases to be an officer with specified responsibilities in relation to the

principal intermediary.".

13 In the proposed section 34ZE, by adding—

"(3A) The Authority may revoke the approval of an individual as a responsible officer of a principal intermediary if the Authority is given a notice under subsection (2) that the individual ceases to be an officer with specified responsibilities in relation to the principal intermediary.".

13 By deleting the proposed section 34ZF(2), (3) and (4) and substituting—

"(2) The approval of the attachment of the person to the principal intermediary—

(a) in the case of subsection (1)(b)(i), is revoked at the time the person ceases to be such a Type B regulatee; or

(b) in the case of subsection (1)(b)(ii), is suspended for the period during which that suspension is in force.

(3) Where the person is not approved as being attached to any principal intermediary after a revocation under subsection (2)(a), the Authority may revoke the registration of the person as a subsidiary intermediary if—

(a) no application has been made under section 34V(1) for approval of attachment of the person to a principal intermediary within 90 days after the date on which the revocation under subsection (2)(a) takes effect; or

(b) such an application has been made within 90 days after the date on which the revocation under subsection (2)(a) takes effect, and the Authority has rejected the application.".

13 In the proposed section 34ZG(4)(a) and (b), in the Chinese text, by deleting "的生效" and substituting "生效的".

13 In the proposed section 34ZG(4)(a), in the Chinese text, by deleting "提出" and substituting "提出的".

13 In the proposed section 34ZH(3)(a) and (b), in the Chinese text, by

deleting "的生效" and substituting "生效的".

13 In the proposed section 34ZH(3)(a), in the Chinese text, by deleting "提出" and substituting "提出的".

13 In the proposed section 34ZK(2), in the Chinese text, by deleting "和支持" and substituting "或支援".

13 In the proposed section 34ZK, by adding—

"(3) The power under subsection (2) is not exercisable unless, before exercising the power, the Authority—

(a) has given the individual a notice in writing of its intention to do so and the reasons for doing so; and

(b) has given the individual an opportunity to make oral or written representations, or both, on those reasons.

(4) A notice under subsection (3)(a) must also include a statement describing—

(a) the right of the individual to make representations; and

(b) how and when the individual may make representations.".

13 In the proposed section 34ZL(1)(c) and (f), by adding "(as the case may be)" after "subsidiary intermediary".

13 In the proposed section 34ZL, by adding—

"(1A) A principal intermediary must keep such records of activities carried out by the principal intermediary, and of those carried out by every subsidiary intermediary attached to the principal intermediary, as may be necessary for enabling the frontline regulator of the principal intermediary to ascertain—

(a) whether or not the principal intermediary has complied with subsection (1); and

(b) whether or not every subsidiary intermediary attached to the principal intermediary has complied with

subsection (1).".

13 By deleting the proposed section 34ZN(2).

13 In the proposed section 34ZN(5), by deleting "10" and substituting "15 working".

13 In the proposed section 34ZN(8), by deleing the definition of ***chargeable period*** and substituting—

"***chargeable period*** (收費期), in relation to a person who is a registered intermediary, means—

(a) the period beginning on the date of the registration of the person as such registered intermediary and ending immediately before the specified date next following; or

(b) each successive period of 12 months;".

13 In the proposed section 34ZN(8), by adding—

"***specified date*** (指明日期) means the date specified by the Authority under subsection (7)(a).".

13 In the proposed section 34ZO(4), by deleting "10" and substituting "15 working".

13 In the proposed section 34ZR(1)(c), in the Chinese text, by adding "可" before "複製".

13 In the proposed section 34ZR(3)(a) and (b), by deleting "frontline regulator" and substituting "inspector".

13 In the proposed section 34ZR(4), in the Chinese text, by deleting "不可"

and substituting "不得".

13 In the proposed section 34ZU(2)(a), in the Chinese text, by adding "可能" before "沒有".

13 In the proposed section 34ZV(1), in the Chinese text, by deleting "該人沒有" and substituting "該人可能沒有".

13 In the proposed section 34ZW(7)(b)(i), by adding "or such a person" after "regulator".

13 In the proposed section 34ZW(8), by adding "specified for the purposes of subsection (7)(b)" after "The matters".

13 In the proposed section 34ZW, by adding—

"(8A) If the Authority exercises a power under subsection (1) or (2) to make a disciplinary order against a regulated person, the Authority may disclose to the public details of the decision, including the reasons for it and any material facts of the case.".

13 In the proposed section 34ZX(4)(c), in the Chinese text, by adding "經更改的" after "有關".

13 In the proposed section 34ZY(2)(b)(i), by adding "or such a person" after "regulator".

13 In the proposed section 34ZY(3), by adding "specified for the purposes of subsection (2)(b)" after "The matters".

13 In the proposed section 34ZZ(4)(a), by deleting "(a)(i) or (ii) or (b)" (wherever appearing).

13 In the proposed section 34ZZC(6), by deleting "specified requirement imposed" and substituting "requirement imposed under section 34P or 34ZU".

13 In the proposed section 34ZZC(7)(b), in the Chinese text, by deleting "等" (wherever appearing).

13 In the proposed section 34ZZD(5), by deleting "(2)(b)" and substituting "(3)(b)".

13 In the proposed section 34ZZE(1), by deleting "inspector or" (wherever appearing).

13 In the proposed section 34ZZE(1), by deleting ", 34ZR".

13 In the proposed section 34ZZE(2)(a), by deleting "inspector or".

13 In the proposed section 34ZZE(2)(a), by deleting ", 34ZR".

13 In the proposed section 34ZZF(1)(b), in the Chinese text, by deleting everything after "移走" and substituting "下述紀錄或文件：該手令所列明的人有合理因由相信是根據第34P、34ZR或34ZU條(視屬何情況而定)可被要求交出的紀錄或文件。".

13 By deleting the proposed section 34ZZF(3), (4) and (5).

13 In the proposed section 34ZZF(6), by deleting "an authorized" and substituting "a relevant".

13 In the proposed section 34ZZF(6), by deleting "the authorized" (wherever appearing) and substituting "the relevant".

13 In the proposed section 34ZZF(7), by deleting "An authorized" and substituting "A relevant".

13 In the proposed section 34ZZF(7)(b), by deleting "the authorized" and substituting "the relevant".

13 In the proposed section 34ZZF(8)(b), in the Chinese text, by deleting "等".

13 In the proposed section 34ZZF(9), by deleting "an authorized" and substituting "a relevant".

13 In the proposed section 34ZZF(9), by deleting "the authorized" and substituting "the relevant".

13 In the proposed section 34ZZF(11)(b), by deleting "an authorized" and substituting "a relevant".

13 In the proposed section 34ZZF(13), in the definition of ***authorized person***, by deleting "***authorized person*** (獲授權人)" and substituting "***relevant person*** (有關人士)".

13 In the proposed section 34ZZF(13), in the Chinese text, in the definition

of ***relevant person***, by deleting "執行" and substituting "進行".

13 In the proposed section 34ZZJ, in the heading, by deleting "**Fees sharing**" and substituting "**Payment by Authority to industry regulator in relation to expenditure or cost for services**".

15 By deleting the proposed section 42AA(1) and substituting—

"(1) Section 41 does not prevent the Authority or an entity specified in subsection (4) from disclosing the information to another entity so specified if, in the opinion of the Authority or the entity disclosing the information—

(a) the disclosure will enable or assist the recipient of the information to perform the recipient's functions under Part IVA;

(b) the disclosure will enable or assist the recipient of the information to perform the recipient's functions (other than those under Part IVA) and it is not contrary to the interest of the investing public or to the public interest that the information should be so disclosed; or

(c) it is desirable or expedient that the information should be disclosed in the interest of the investing public or in the public interest.

(1A) Section 41 does not prevent an entity specified in subsection (4) from disclosing the information to the Authority if, in the opinion of the entity, the disclosure will enable or assist the Authority to perform its functions.".

15 In the proposed section 42AA(2)(d), in the Chinese text, by deleting everything after "下被披露" and substituting "，以致可被公眾人士取得，或第41條不禁止為某目的披露資料，而有關資料已為該目的而可被公眾人士取得；".

15 In the proposed section 42AA(2)(e), by deleting "a liquidator appointed under the Companies Ordinance (Cap. 32), the Authority or another entity specified in subsection (4), but only if the entity disclosing the

information" and substituting "or a liquidator appointed under the Companies Ordinance (Cap. 32), but only if the entity".

15 By deleting the proposed section 42AA(4)(a), (b) and (c) and substituting—

"(a) the Insurance Authority;

(b) the Monetary Authority; or

(c) the Securities and Futures Commission.".

15 In the proposed section 42AB, in the heading, by deleting "**or investigation**" and substituting "**, investigation or disciplinary action**".

15 By deleting the proposed section 42AB(1) and (2) and substituting—

"(1) This section applies to—

(a) a person on whom a requirement under section 34P, 34ZR or 34ZU has been imposed by—

(i) the Authority or a person directed by the Authority under section 34O(1)(a)(ii); or

(ii) an industry regulator or a person directed by an industry regulator under section 34O(2)(b), 34ZQ(1)(b) or 34ZT(1)(b); or

(b) a person who has been given a notice under section 34ZZ(2)(a) or 34ZZH(2).

(2) The person specified in subsection (1)(a) must not disclose any information obtained in the course of the requirement being imposed, or in the course of a compliance or purported compliance with the requirement, to any other person unless—

(a) the following consents to the disclosure—

(i) in the case of subsection (1)(a)(i), the Authority;

(ii) in the case of subsection (1)(a)(ii), the industry regulator; or

(b) any of the conditions specified in subsection (2B) is satisfied.

(2A) The person specified in subsection (1)(b) must not disclose any information obtained from the notice, or from any communication with the Authority in relation to the subject

matter of the notice, unless—

(a) the Authority consents to the disclosure; or

(b) any of the conditions specified in subsection (2B) is satisfied.

(2B) The conditions specified for the purposes of subsections (2)(b) and (2A)(b) are—

(a) the information has already been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by section 41;

(b) the disclosure is for the purpose of seeking advice from, or giving advice by counsel, a solicitor, or any other professional advisor, acting or proposing to act in a professional capacity in connection with any matter arising under a provision of Part IVA;

(c) the disclosure is in connection with any judicial or other proceedings to which the person is a party; and

(d) the disclosure is in accordance with an order of a court, or in accordance with a law or a requirement made under a law.".

15 In the proposed section 42AB(3), by adding "by it" after "given".

15 In the proposed section 42AB(3), by adding "or (2A)(a)" after "(2)(a)".

15 In the proposed section 42AB(4), by adding "or (2A)" after "(2)".

16(2) By deleting the proposed section 42B(3)(a), (b) and (c) and substituting—

"(a) the Insurance Authority;

(b) the Monetary Authority; or

(c) the Securities and Futures Commission.".

19 In the proposed section 44A(1)(b)(iii), (2)(b)(iii), (3)(b)(ii), (4)(b)(ii) and (5)(b)(ii), in the Chinese text, by deleting "證據" and substituting "證明".

19 In the proposed section 44A(2)(a), in the Chinese text, by deleting "或(8)" and substituting "及(8)".

21 In the proposed Schedule 5B, in the Chinese text, in section 1(2), by deleting "該詞的" and substituting "該詞句的".

21 In the proposed Schedule 5B, in section 2(4)(b)(ii)(A), by deleting "196(1)(i)(B) of that Ordinance" and substituting "196(1)(i)(B) or 197(1) of that Ordinance, or is deemed to be suspended under section 197(4) of that Ordinance,".

21 In the proposed Schedule 5B, in section 2(4)(b)(ii)(B), by adding "or 197(1), or is deemed to be suspended under that section 197(4)," after "196(1)(i)(B)".

21 In the proposed Schedule 5B, in section 2(4)(c)(i), by deleting "of the Securities and Futures Ordinance (Cap. 571)" and substituting "or 195(1) of the Securities and Futures Ordinance (Cap. 571), or is deemed to be suspended under section 195(4) of that Ordinance,".

21 In the proposed Schedule 5B, in section 2(4)(c)(ii), by deleting "that section" and substituting "that section 194(1)(i)(B) or 195(1), or is deemed to be suspended under that section 195(4),".

21 In the proposed Schedule 5B, in section 3(1)(c) and (d), by adding "broker" before "body".

21 In the proposed Schedule 5B, in the Chinese text, in section 3(2)(a)(i) and (ii), by deleting "中止" and substituting "終止".

21 In the proposed Schedule 5B, in section 3(4)(d)(i), by deleting "of the Securities and Futures Ordinance (Cap. 571)" and substituting "or 195(1)

of the Securities and Futures Ordinance (Cap. 571), or is deemed to be suspended under section 195(4) of that Ordinance,".

21 In the proposed Schedule 5B, in section 3(4)(d)(ii), by deleting "that section" and substituting "that section 194(1)(i)(B) or 195(1), or is deemed to be suspended under that section 195(4),".

21 In the proposed Schedule 5B, in the Chinese text, in section 4, in the heading, by deleting "**法團**" and substituting "**公司**".

21 In the proposed Schedule 5B, in the Chinese text, in section 4(1)(a), by deleting "法團" and substituting "公司".

21 In the proposed Schedule 5B, in section 4(1)(b), by deleting "an authorized financial institution" and substituting "a holder of a Type A qualifying capacity".

21 In the proposed Schedule 5B, in the Chinese text, in section 5, in the heading, by deleting "**法團**" and substituting "**公司**".

21 In the proposed Schedule 5B, in the Chinese text, in section 5(1)(a), by deleting "法團" and substituting "公司".

21 In the proposed Schedule 5B, in section 5(1)(b), by deleting "an authorized financial institution" and substituting "a holder of a Type A qualifying capacity".

21 In the proposed Schedule 5B, in section 5(2)(b), by deleting "34U(7)" and substituting "34V(3)".

21 In the proposed Schedule 5B, in section 6(1), by deleting "specified in subsection (2)".

21 In the proposed Schedule 5B, by deleting section 6(2).

21 In the proposed Schedule 5B, in section 6(3)(b), by deleting "34U(7)" and substituting "34V(3)".

21 In the proposed Schedule 5B, in the Chinese text, in section 7(2)(a), by deleting "法團" and substituting "公司".

21 In the proposed Schedule 5B, in section 7(2)(b), by deleting "an authorized financial institution" and substituting "a holder of a Type A qualifying capacity".

21 In the proposed Schedule 5B, in section 9(3), by deleting subsection (1) of the replacement section 34ZF and substituting—

"(1) This section applies—

(a) if a person is a subsidiary intermediary attached to a principal intermediary; and

(b) if—

(i) the person—

(A) ceases to hold the relevant Type B qualifying capacity; or

(B) ceases to hold a Type B qualifying capacity (other than the relevant Type B qualifying capacity), and on the cessation no longer holds any Type B qualifying capacity; or

(ii) the person—

(A) has the relevant Type B qualifying capacity suspended; or

(B) has a Type B qualifying capacity (other than the relevant Type B qualifying capacity)

suspended, and on the suspension no longer holds any Type B qualifying capacity that is not under suspension.".

21 In the proposed Schedule 5B, in section 9(3), by deleting subsection (2) of the replacement section 34ZF.

21 In the proposed Schedule 5B, in section 9(3), by deleting subsections (3), (4) and (5) of the replacement section 34ZF and substituting—

"(3) The approval of the attachment of the person to the principal intermediary—

(a) in the case of subsection (1)(b)(i), is revoked at the time the person ceases to hold the relevant Type B qualifying capacity or the Type B qualifying capacity; or

(b) in the case of subsection (1)(b)(ii), is suspended for the period during which that suspension is in force.

(4) Where the person is not approved as being attached to any principal intermediary after a revocation under subsection (3)(a), the registration of the person as a subsidiary intermediary is revoked if—

(a) no application has been made under section 34V(1) for approval of attachment of the person to a principal intermediary within 90 days after the date on which the revocation under subsection (3)(a) takes effect; or

(b) such an application has been made within 90 days after the date on which the revocation under subsection (3)(a) takes effect, and the Authority has rejected the application.".

21 In the proposed Schedule 5B, in section 9(4), by deleting everything after "following" and substituting—

"—

"(c) a subsidiary intermediary—

(i) acquires any qualification as a Type B regulatee;

(ii) ceases to hold any Type B qualifying capacity; or

(iii) has any Type B qualifying capacity suspended; or".".

22 In the proposed item 15(f), in the Chinese text, by deleting "等".

New By adding immediately before clause 24—

"**23A. Section 2 amended (interpretation)**

Section 2—

Repeal the definition of *authorized financial institution*.".

27(1) In the proposed item 6A(a) and (b), by deleting "or extract of the Register" and substituting "the Register or of an extract of such an entry".

27(2) By deleting the proposed item 8 and substituting—

"8.	34T	Fee payable when an application is lodged with the Authority for registration as an intermediary for carrying on regulated activities	Nil".

27(2) By deleting the proposed item 9 and substituting—

"9.	34U	Fee payable when an application is lodged with the Authority for registration as an intermediary for carrying on regulated activities for a principal intermediary	Nil".