

立法會
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Paper for the House Committee meeting on 4 November 2011

**Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 3) Notice 2011**

Purpose

This paper reports on the deliberations of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 (Amendment Notice).

Background

2. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO), an employer and an employee must, unless exempted, each contribute 5% of the employee's relevant income to a Mandatory Provident Fund (MPF) scheme as mandatory contribution. Similarly, a self-employed person (SEP) must contribute 5% of his relevant income to an MPF scheme. However, if the relevant income of the employee or SEP concerned is less than the prescribed Minimum Relevant Income Level (Min RI), he is not required to make mandatory contribution himself, although his employer (in case of an employee) still has to make mandatory contribution for him. The purpose of setting a Min RI for MPF mandatory contributions is to lessen the financial burden of MPF contributions on low-paid employees and SEPs. For a relevant employee or SEP whose relevant income is above the prescribed Maximum Relevant Income Level (Max RI), both he and his employer (in case of an employee) are not required to make mandatory contribution in respect of the excess relevant income. The prescribed Min RI and Max RI are \$5,000¹ and \$20,000 per month respectively.

3. Section 10A of MPFSO requires the Mandatory Provident Fund Schemes Authority (MPFA) to conduct a review of Min RI and Max RI at least once in every four years to ascertain whether there are grounds to amend the

¹ The Min RI was increased to \$6,500 on 1 November 2011.

levels. The latest review of Min RI and Max RI conducted by MPFA in 2010 has revealed that, according to the statutory factors², consideration may be given to increasing Min RI from \$5,000 to \$5,500, and Max RI from \$20,000 to \$30,000. MPFA has also suggested that the Administration may consider other relevant factors, such as the Statutory Minimum Wage (SMW). The Administration has consulted the Panel on Financial Affairs (the Panel) in February 2011, and further gauged the views of the public at a public hearing convened by the Panel in April 2011. Taking into account the policy objectives of Min RI and Max RI, the implementation of SMW on the income levels of the low income group, and the views received, the Administration has proposed to increase Min RI from \$5,000 to \$6,500 with effect from 1 November 2011, and Max RI from \$20,000 to \$25,000 per month with effect from 1 June 2012.

The Amendment Notice

4. The Amendment Notice seeks to –
- (a) replace the existing Max RI of \$20,000 per month for employees (not being casual employees who are members of an industry scheme) who are remunerated on a monthly basis with \$25,000 per month;
 - (b) replace the existing Max RI of \$650 per day with \$830 per day for employees (not being casual employees who are members of an industry scheme) who are remunerated more frequently than on a monthly basis, as well as casual employees who are members of an industry scheme;
 - (c) replace the existing Max RI of \$20,000 per month for employees (not being casual employees who are members of an industry scheme) who are remunerated less frequently than on a monthly basis with \$25,000 per month, the amount as prorated; and
 - (d) replace the existing Max RI of \$20,000 per month or \$240,000 per year for SEPs with \$25,000 per month or \$300,000 per year.

² The statutory factors in section 10A are –

- (a) for Min RI, 50% of the monthly median employment earnings prevailing at the time of the review as compiled from the General Household Survey ("GHS") conducted by the Census and Statistics Department ("C&SD"); and
- (b) for Max RI, the monthly employment earnings at 90th percentile of the monthly employment earnings distribution prevailing at the time of the review as compiled from the GHS conducted by C&SD.

The Subcommittee

5. At the House Committee meeting held on 17 June 2011, Members agreed to form a Subcommittee to study the Amendment Notice. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee has held four meetings. The membership list of the Subcommittee is in **Appendix I**. Apart from discussion with the Administration, the Subcommittee has also invited views from interested parties, including the relevant trades and professions. 14 organizations/individuals have made written and/or oral representations to the Subcommittee. A list of these organizations/individuals is in **Appendix II**. The Administration's response to these representations is set out in LC Paper No. CB(1) 120/11-12(02).

Deliberations of the Subcommittee

6. In the course of deliberation of the Amendment Notice, members have examined issues relating to the implementation schedule and review mechanism. The discussions are summarized in the ensuing paragraphs.

Implementation schedule

7. With the passage of the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 in June 2011, the Subcommittee notes that the monthly Min RI will be increased from \$5,000 to \$6,500 with effect from 1 November 2011. However, the new Max RI will only come into operation on 1 June 2012 subject to the passage of the Amendment Notice. Some members have questioned the rationale for implementing the new Min RI and Max RI by different phases. These members have expressed concern that the delay in adjusting the Max RI might constitute discrimination.

8. The Administration has advised that in the course of finalizing the legislative proposal on the Max RI and the implementation timeframe, MPFA has consulted relevant advisory bodies. The Administration and MPFA also consulted the Panel and attended a public hearing organized by the Panel. The statutory factor to be considered for the review of Max RI has pointed to a level of \$30,000 since 2002, but the existing Max RI of \$20,000 has not been amended since inception of the MPF System in December 2000. This is not conducive to the objective of enhancing retirement protection. According to the Administration, the proposal of increasing the Max RI has the support of political parties and a number of employers' and employees' associations, albeit their preferences vary from \$22,000 to \$30,000. However, some employers' associations indicated that businesses, particularly small and medium enterprises, were still digesting the cost implications resulting from the implementation of the SMW in May 2011, and that any major increase in Max

RI would pose hardship. There were also different views among employees as some did not support making additional MPF contributions which would reduce their disposable income and investment flexibility. After taking into account the views received, the Administration and MPFA consider an increase of Max RI to \$25,000 at this stage would strike an appropriate balance between addressing the basic retirement needs of the working population and their present livelihood. The new Max RI should commence on 1 June 2012.

9. While acknowledging that the outcome of consultation conducted by MPFA is consistent with that by the Subcommittee, some members have enquired about the basis upon which the implementation date of 1 June 2012 for the new Max RI is arrived at. The Administration has advised that the proposed implementation date aims to allow reasonable time for both employers and employees to adjust to the new contribution level.

Review mechanism

10. Some Subcommittee members have enquired whether there is a plan to increase the Max RI to \$30,000. The Administration has advised that the Amendment Notice seeks to increase the Max RI to \$25,000 without any provision for further increase using a phased approach. Nevertheless, MPFA is planning a comprehensive review of the statutory adjustment mechanism in section 10A of MPFSO. According to MPFA's latest plan, the review will be conducted in late 2012 to early 2013 viz. about 18 to 24 months after the implementation of SMW when the effect of SMW is more evident. The mechanism for adjusting the Max RI and the relevant income level, will be considered in the context of the review.

Amendments to the Amendment Notice

11. The Administration and the Subcommittee have not proposed any amendment to the Amendment Notice.

Advice sought

12. Members are requested to note the deliberations of the Subcommittee.

**Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 3) Notice 2011**

Membership list

Chairman Hon WONG Ting-kwong, BBS, JP

Members Hon LEE Cheuk-yan
Hon Miriam LAU Kin-yea, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Sing-chi
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC

(Total : 9 Members)

Clerk Miss Becky YU

Legal Adviser Miss Evelyn LEE

Date 11 July 2011

Appendix II

List of organizations/individuals which/who have made written and/or oral representations to the Subcommittee

- (1) A member of the public
- (2) Association of Restaurant Managers
- (3) Diocesan Pastoral Centre for Workers (New Territories)
- (4) Federation of Hong Kong Industries
- (5) Hong Kong Catering Industry Association
- (6) Hong Kong Small and Medium Enterprises Association
- (7) Institution of Dining Art
- (8) Momentum 107
- (9) Mr Martin OEI
- (10) Mr Raymond HO
- (11) Mr YEUNG Wai-sing, member of the Eastern District Council
- (12) The Hong Kong Chinese Importers' & Exporters' Association
- (13) The Hong Kong Retirement Schemes Association
- (14) The Lion Rock Institute