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<u>LC Paper No. CB(3) 271/12-13</u>

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 9 January 2013

Amendments to motion on
"Comprehensively reviewing the Mandatory Provident Fund Scheme"

Further to LC Paper No. CB(3) 256/12-13 issued on 21 December 2012, four Members (Hon LEE Cheuk-yan, Hon POON Siu-ping, Dr Hon KWOK Ka-ki and Hon CHAN Kin-por) have respectively given notices of their intention to move separate amendments to Hon TANG Ka-piu's motion on "Comprehensively reviewing the Mandatory Provident Fund Scheme" scheduled for the Council meeting of 9 January 2013. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

(a) the President calls upon Hon TANG Ka-piu to speak and move his motion;

(b) the President proposes the question on Hon TANG Ka-piu's motion;

(c) the President calls upon the four Members who intend to move amendments to speak in the following order, but no amendment is to be moved at this stage:

(i) Hon LEE Cheuk-yan;

(ii) Hon POON Siu-ping;

(iii) Dr Hon KWOK Ka-ki; and

(iv) Hon CHAN Kin-por;

(d) the President calls upon the designated public officer(s) to speak;

(e) the President invites other Members to speak;

(f) the President gives leave to Hon TANG Ka-piu to speak for the second time on the amendments;

(g) the President calls upon the designated public officer(s) to speak again;

(h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the four Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon LEE Cheuk-yan to move his amendment to the motion, and forthwith proposes and puts to vote the question on Hon LEE Cheuk-yan's amendment;

(i) after Hon LEE Cheuk-yan's amendment has been voted upon, the President deals with the other three amendments; and

(j) after all amendments have been dealt with, the President calls upon Hon TANG Ka-piu to reply. Thereafter, the President puts to vote the question on Hon TANG Ka-piu's motion, or his motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Odelia LEUNG)
for Clerk to the Legislative Council

<u>Encl.</u>

Appendix

(Translation)

Motion debate on
"Comprehensively reviewing the Mandatory Provident Fund Scheme"
to be held at the Council meeting of 9 January 2013

1. Hon TANG Ka-piu's original motion

That the Mandatory Provident Fund ('MPF') Scheme has been implemented for 12 years since December 2000, and its effectiveness has always been of major concern to society; according to the statistics of the Mandatory Provident Fund Schemes Authority ('MPFA'), at present, there are over three million employee's contribution accounts and around four million preserved accounts in Hong Kong; as at September 2012, the net asset values of approved constituent funds under the MPF Scheme reached HK$412.4 billion; yet, the expensive MPF administration fees, the lack of supervision over fund performance and the erosion of contributions by intermediaries and sponsors, coupled with the use of the accrued benefits derived from employers' contributions to offset severance payments and long service payments, have become the major loopholes in the MPF Scheme which directly affect employees' retirement protection; in this connection, this Council urges the Government to:

(1) abolish the mechanism whereby the accrued benefits derived from employers' contributions under the MPF Scheme are used to offset long service payments and severance payments, and retain Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

(2) implement a full portability arrangement for the MPF Scheme to enable employees to choose trustees on their own, establish 'one lifelong account' for employees and credit the MPF accrued benefits derived from employer's and employee's contributions to this account, so as to prevent them from having multiple preserved accounts due to change of jobs, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to better manage their MPF accrued benefits;

(3) enact legislation to set a ceiling for the Fund Expense Ratio ('FER') of MPF funds, and require trustees to set out the actual amounts and ratios of various fees and FER in the annual reports issued to employees;

(4) strengthen the regulation of MPF investment products, regularly review the sales practices of intermediaries and establish a mechanism for facilitating people to claim losses;

(5) set up a public trustee that operates under the Government, a public body or a voluntary organization which charges lower administration fees, and provide low-risk capital preservation funds which are guaranteed to be inflation-linked for employees to choose, so as to achieve the objective of increasing competition to make other trustees to lower fees and improve performance;

(6) rationalize and eliminate substandard MPF funds to reduce total fund expenses, and establish a monitoring system under which the total amount of fees charged by MPF funds are linked to performance;

(7) regulate sponsors of MPF Schemes, enhance the monitoring of Scheme sponsors' performance and profits, and establish a clear tripartite relationship among Scheme sponsors, intermediaries and contributors;

(8) step up law enforcement to combat default contributions, including sentencing employers convicted of contravening the law to immediate imprisonment, and blacklisting the law-breaking companies concerned in the tendering exercises for government services as a penalty, etc.;

(9) amend the legislation to reform the Occupational Retirement Schemes (i.e. 'provident fund') system, requiring that when employers implement the provident fund, the vesting scales of the provident fund offered by them to employees are no less than the total amount of employers' contributions under the MPF Scheme, so as to plug the loopholes in the provident fund;

(10) establish an inter-bureau group to implement, within the term of the current Government, the various proposals for improving the MPF Scheme put forward by MPFA on 26 November 2012, and regularly report the progress to the Legislative Council; and

(11) study the implementation of a universal integrated retirement protection system in addition to the MPF Scheme, so as to make up for the inadequacies in the MPF system.

2. Motion as amended by Hon LEE Cheuk-yan

That ~~the~~***, as the existing*** Mandatory Provident Fund ('MPF') Scheme ~~has been implemented for 12 years since December 2000, and its effectiveness has always been of major concern to society;~~ ***fails to effectively protect the retirement life of low-income and non-working persons, this Council urges the Government to, using the Universal Old Age Pension Scheme put forward by community groups as a model, set aside HK$50 billion to HK$100 billion as start-up funds, and implement within five years a universal retirement protection system with tripartite contributions from employees, employers and the Government as well as elements of pre-funding; on the other hand,*** according to the statistics of the Mandatory Provident Fund Schemes Authority ('MPFA'), at present, there are over three million employee's contribution accounts and around four million preserved accounts in Hong Kong; as at September 2012, the net asset values of approved constituent funds under the MPF Scheme reached HK$412.4 billion; yet, the expensive MPF administration fees, the lack of supervision over fund performance and the erosion of contributions by intermediaries and sponsors, coupled with the use of the accrued benefits derived from employers' contributions to offset severance payments and long service payments, have become the major loopholes in the MPF Scheme which directly affect employees' retirement protection; in this connection, this Council urges the Government to:

(1) abolish the mechanism whereby the accrued benefits derived from employers' contributions under the MPF Scheme are used to offset long service payments and severance payments, and retain Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

(2) implement a full portability arrangement for the MPF Scheme to enable employees to choose trustees on their own, establish 'one lifelong account' for employees and credit the MPF accrued benefits derived from employer's and employee's contributions to this account, so as to prevent them from having multiple preserved accounts due to change of jobs, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to better manage their MPF accrued benefits;

(3) enact legislation to set a ceiling for the ~~Fund Expense Ratio ('FER')~~ ***fees and charges*** of MPF funds, and require trustees to set out the

actual amounts and ratios of various fees and ~~FER~~ ***the Fund Expense Ratio*** in the annual reports issued to employees;

(4) strengthen the regulation of MPF investment products, regularly review the sales practices of intermediaries and establish a mechanism for facilitating people to claim losses;

(5) set up a public trustee that operates under the Government, a public body or a voluntary organization which charges lower administration fees, and provide low-risk capital preservation funds which are guaranteed to be inflation-linked for employees to choose, so as to achieve the objective of increasing competition to make other trustees to lower fees and improve performance;

(6) allow employees to choose to deposit part of their contributions into the Exchange Fund, with the annual return rate calculated on the basis of the average return rate of the Exchange Fund investment portfolios over the past six years and the introduction of a minimum return guarantee, so as to ensure that the annual return will not be lower than the average yield rate of Exchange Fund Bills of 3-year maturity in the preceding year;

(7) provide non-working spouses of MPF Scheme members and low-income employees with a contribution supplement, so as to strengthen their retirement protection;

(8) require MPF trustees to provide annuity plans, so that employees can choose to withdraw a fixed amount of money on a monthly basis upon retirement, thereby ensuring a stable income for them after retirement;

~~(6)~~***(9)*** rationalize and eliminate substandard MPF funds to reduce total fund expenses, and establish a monitoring system under which the total amount of fees charged by MPF funds are linked to performance;

~~(7)~~***(10)*** regulate sponsors of MPF Schemes, enhance the monitoring of Scheme sponsors' performance and profits, and establish a clear tripartite relationship among Scheme sponsors, intermediaries and contributors;

~~(8)~~***(11)*** step up law enforcement to combat default contributions, including sentencing employers convicted of contravening the law to immediate imprisonment, and blacklisting the law-breaking companies concerned in the tendering exercises for government services as a penalty, etc.;

~~(9)~~***(12)*** amend the legislation to reform the Occupational Retirement Schemes (i.e. 'provident fund') system, requiring that when employers implement the provident fund, the vesting scales of the provident fund offered by them to employees are no less than the total amount of employers' contributions under the MPF Scheme, so as to plug the loopholes in the provident fund; ***and***

~~(10)~~***(13)*** establish an inter-bureau group to implement, within the term of the current Government, the various proposals for improving the MPF Scheme put forward by MPFA on 26 November 2012, and regularly report the progress to the Legislative Council~~; and~~

~~(11) study the implementation of a universal integrated retirement protection system in addition to the MPF Scheme, so as to make up for the inadequacies in the MPF system~~.

Note: Hon LEE Cheuk-yan's amendment is marked in ***bold and italic type*** or with deletion line.

3. Motion as amended by Hon POON Siu-ping

That***, given that*** the Mandatory Provident Fund ('MPF') Scheme has been implemented for 12 years since December 2000, and its effectiveness has always been ~~of major concern to~~ ***queried in*** society; according to the statistics of the Mandatory Provident Fund Schemes Authority ('MPFA'), at present, there are over three million employee's contribution accounts and around four million preserved accounts in Hong Kong; as at September 2012, the net asset values of approved constituent funds under the MPF Scheme reached HK$412.4 billion; yet, the expensive MPF administration fees, ~~the lack of supervision over fund performance~~ ***the awaited improvement in fund supervision*** and the erosion of contributions by intermediaries and sponsors, coupled with the use of the accrued benefits derived from employers' contributions to offset severance payments and long service payments, ***as well as the non-inclusion of family carers in the protection coverage of MPF,*** have become the major loopholes in the MPF Scheme which directly affect ~~employees'~~ ***people's*** retirement protection; in this connection, this Council urges the Government to:

(1) link the MPF Scheme with age in addition to employment, with the Government making the minimum MPF contribution for persons in the labour force who are neither in employment nor engaged in full-time studies;

~~(1)~~***(2)*** abolish the mechanism whereby the accrued benefits derived from employers' contributions under the MPF Scheme are used to offset long service payments and severance payments, and retain Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

~~(2)~~***(3)*** implement a full portability arrangement for the MPF Scheme to enable employees to choose trustees on their own, establish 'one lifelong account' for employees and credit the MPF accrued benefits derived from employer's and employee's contributions to this account, so as to prevent them from having multiple preserved accounts due to change of jobs, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to better manage their MPF accrued benefits;

~~(3)~~***(4)*** enact legislation to set a ceiling for the Fund Expense Ratio ('FER') of MPF funds, and require trustees to set out the actual amounts and ratios of various fees and FER in the annual reports issued to employees;

~~(4)~~***(5)*** strengthen the regulation of MPF investment products, regularly review the sales practices of intermediaries and establish a mechanism for facilitating people to claim losses;

~~(5)~~***(6)*** set up a public trustee that operates under the Government, a public body or a voluntary organization which charges lower administration fees, and provide low-risk capital preservation funds which are guaranteed to be inflation-linked for employees to choose, so as to achieve the objective of increasing competition to make other trustees to lower fees and improve performance;

~~(6)~~***(7)*** rationalize and eliminate substandard MPF funds to reduce total fund expenses, and establish a monitoring system under which the total amount of fees charged by MPF funds are linked to performance;

~~(7)~~***(8)*** regulate sponsors of MPF Schemes, enhance the monitoring of Scheme sponsors' performance and profits, and establish a clear tripartite relationship among Scheme sponsors, intermediaries and contributors;

~~(8)~~***(9)*** step up law enforcement to combat default contributions, including sentencing employers convicted of contravening the law to immediate imprisonment, and blacklisting the law-breaking companies concerned in the tendering exercises for government services as a penalty, etc.;

~~(9)~~***(10)*** amend the legislation to reform the Occupational Retirement Schemes (i.e. 'provident fund') system, requiring that when employers implement the provident fund, the vesting scales of the provident fund offered by them to employees are no less than the total amount of employers' contributions under the MPF Scheme, so as to plug the loopholes in the provident fund;

~~(10)~~***(11)*** establish an inter-bureau group to implement, within the term of the current Government, the various proposals for improving the MPF Scheme put forward by MPFA on 26 November 2012, and regularly report the progress to the Legislative Council; and

~~(11)~~***(12)*** study the implementation of a universal integrated retirement protection system in addition to the MPF Scheme, so as to make up for the inadequacies in the MPF system.

Note: Hon POON Siu-ping's amendment is marked in ***bold and italic type*** or with deletion line.

4. Motion as amended by Dr Hon KWOK Ka-ki

That***, as the Government has all along insisted on supporting people's retirement living expenses through 'three pillars', i.e. the Comprehensive Social Security Assistance Scheme and the Social Security Allowance Scheme, individual or family savings, and*** the Mandatory Provident Fund ('MPF')***, it has all the time failed to conduct detailed studies or extensive consultation on the implementation of universal retirement protection; although employers and employees must make MPF contributions at present, the MPF Scheme does not cover the unemployed, casual workers, persons with disabilities and housewives, rendering their retirement life unprotected; the*** Scheme has been implemented for 12 years since December 2000, and its effectiveness has always been of major concern to society; according to the statistics of the Mandatory Provident Fund Schemes Authority ('MPFA'), at present, there are over three million employee's contribution accounts and around four million preserved accounts in Hong Kong; as at September 2012, the net asset values of approved constituent funds under the MPF Scheme reached HK$412.4 billion; yet, the expensive MPF administration fees, the lack of supervision over fund performance and the erosion of contributions by intermediaries and sponsors, coupled with the use of the accrued benefits derived from employers' contributions to offset severance payments and long service payments, have become the major loopholes in the MPF Scheme which directly affect employees' retirement protection; in this connection, this Council urges the Government to:

(1) abolish the mechanism whereby the accrued benefits derived from employers' contributions under the MPF Scheme are used to offset long service payments and severance payments, and retain Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

(2) implement a full portability arrangement for the MPF Scheme to enable employees to choose trustees on their own, establish 'one lifelong account' for employees and credit the MPF accrued benefits derived from employer's and employee's contributions to this account, so as to prevent them from having multiple preserved accounts due to change of jobs, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to better manage their MPF accrued benefits;

(3) enact legislation to set a ceiling for the Fund Expense Ratio ('FER') of MPF funds, and require trustees to set out the actual amounts and ratios of various fees and FER in the annual reports issued to employees;

(4) strengthen the regulation of MPF investment products, regularly review the sales practices of intermediaries and establish a mechanism for facilitating people to claim losses;

(5) set up a public trustee that operates under the Government, a public body or a voluntary organization which charges lower administration fees, and provide low-risk capital preservation funds which are guaranteed to be inflation-linked for employees to choose, so as to achieve the objective of increasing competition to make other trustees to lower fees and improve performance;

(6) rationalize and eliminate substandard MPF funds to reduce total fund expenses, and establish a monitoring system under which the total amount of fees charged by MPF funds are linked to performance;

(7) regulate sponsors of MPF Schemes, enhance the monitoring of Scheme sponsors' performance and profits, and establish a clear tripartite relationship among Scheme sponsors, intermediaries and contributors;

(8) step up law enforcement to combat default contributions, including sentencing employers convicted of contravening the law to immediate imprisonment, and blacklisting the law-breaking companies concerned in the tendering exercises for government services as a penalty, etc.;

(9) amend the legislation to reform the Occupational Retirement Schemes (i.e. 'provident fund') system, requiring that when employers implement the provident fund, the vesting scales of the provident fund offered by them to employees are no less than the total amount of employers' contributions under the MPF Scheme, so as to plug the loopholes in the provident fund;

(10) establish an inter-bureau group to implement, within the term of the current Government, the various proposals for improving the MPF Scheme put forward by MPFA on 26 November 2012, and regularly report the progress to the Legislative Council; and

(11) ~~study the implementation of~~ ***implement*** a universal integrated retirement protection system***, i.e. a universal retirement protection scheme,*** in addition to the MPF Scheme, so as to make up for the inadequacies in the MPF system***; such a universal retirement protection scheme should be funded by tripartite contributions from the Government, employers and employees, and, under the principle of no tax increase, no increase in employers' contribution ratio and no increase in employees' contribution burden, provide each elderly person aged 65 or above with a monthly pension sufficient to maintain a reasonable standard of living; and the Government must expeditiously establish a universal retirement protection fund managed by the Hong Kong Monetary Authority to manage the Government's contribution***.

Note: Dr Hon KWOK Ka-ki's amendment is marked in ***bold and italic type*** or with deletion line.

5. Motion as amended by Hon CHAN Kin-por

That***, given that*** the Mandatory Provident Fund ('MPF') Scheme has been implemented for 12 years since December 2000, and its effectiveness has always been of major concern to society; according to the statistics of the Mandatory Provident Fund Schemes Authority ('MPFA'), at present, there are over three million employee's contribution accounts and around four million preserved accounts in Hong Kong; as at September 2012, the net asset values of approved constituent funds under the MPF Scheme reached HK$412.4 billion; ~~yet, the expensive MPF administration fees, the lack of supervision over fund performance and the erosion of contributions by intermediaries and sponsors,~~

~~coupled with~~ ***however, MPF as a long-term retirement protection system still has inadequacies at present and is in need of improvements having regard to its actual operation; at the same time,*** the use of the accrued benefits derived from employers' contributions to offset severance payments and long service payments~~, have become the major loopholes~~ ***has become one of the most controversial issues*** in the MPF Scheme which directly ~~affect~~ ***affects*** employees' retirement protection; in this connection, this Council urges the Government to:

(1) ~~abolish~~ ***consult the stakeholders on the study of the abolition of*** the mechanism whereby the accrued benefits derived from employers' contributions under the MPF Scheme are used to offset long service payments and severance payments~~, and retain~~ ***and the retention of*** Hong Kong employees' rights to severance payments or long service payments under the relevant provisions of the Employment Ordinance, so as to provide employees with better retirement protection;

(2) implement a full portability arrangement for the MPF Scheme to enable employees to choose ~~trustees~~ ***MPF schemes*** on their own, ***and amend legislation to*** establish 'one lifelong account' for employees ~~and credit~~***, requiring each employee to have one MPF account only and crediting*** the MPF accrued benefits derived from employer's and employee's contributions to this account, so as to prevent them from having multiple preserved accounts due to change of jobs, and require trustees to introduce a simple and easy to understand method to inspect accounts similar to that of 'bank books', so as to enable employees to better manage their MPF accrued benefits ***while achieving the objective of reducing MPF administration fees, thereby creating room for reduction in fees and charges***;

(3) ~~enact~~ ***promote the automation of MPF administration and operation to streamline work processes and reduce administration expenses; and should automation ultimately fail to effectively reduce administration expenses, the Government should study the feasibility of enacting*** legislation to set a ceiling for the Fund Expense Ratio ~~('FER') of MPF funds, and require trustees to set out the actual amounts and ratios of various fees and FER in the annual reports issued to employees~~ ***of MPF funds***;

(4) strengthen the regulation of MPF investment products, regularly review the sales practices of intermediaries and establish a mechanism for facilitating people to claim losses;

(5) ~~set up a public trustee~~ ***study whether the setting up of a non-profit-making service organization*** that operates under the

Government, a public body or a voluntary organization ~~which charges lower administration fees, and provide low-risk capital preservation funds which are guaranteed to be inflation-linked for employees to choose, so as to~~ ***can effectively lower administration fees and*** achieve the objective of increasing competition ~~to make other trustees to lower fees and improve performance~~;

(6) ~~rationalize and eliminate substandard MPF funds to~~ ***consult the stakeholders on the consolidation of MPF schemes and funds to achieve better cost-effectiveness and*** reduce total fund expenses~~, and establish a monitoring system under which the total amount of fees charged by MPF funds are linked to performance~~;

(7) ~~regulate~~ ***conduct a study on regulating*** sponsors of MPF Schemes, enhance the monitoring of Scheme ~~sponsors' performance and profits~~ ***sponsors***, and establish a clear ~~tripartite relationship among Scheme sponsors, intermediaries and contributors~~ ***relationship between Scheme sponsors and the relevant stakeholders***;

(8) step up law enforcement to combat default contributions, including sentencing employers convicted of contravening the law to immediate imprisonment, and blacklisting the law-breaking companies concerned in the tendering exercises for government services as a penalty, etc.;

(9) amend the legislation to reform the Occupational Retirement Schemes (i.e. 'provident fund') system, requiring that when employers implement the provident fund, the vesting scales of the provident fund offered by them to employees are no less than the total amount of employers' contributions under the MPF Scheme, so as to plug the loopholes in the provident fund;

(10) establish an inter-bureau group to implement, within the term of the current Government, the various proposals for improving the MPF Scheme put forward by MPFA on 26 November 2012, and regularly report the progress to the Legislative Council; ~~and~~

(11) study the implementation of a universal integrated retirement protection system in addition to the MPF Scheme, so as to make up for the inadequacies in the MPF system***; and***

(12) step up investor education to enable the public to have a more in-depth understanding about MPF and the concept of long-term retirement investments.

<u>Note</u>: Hon CHAN Kin-por's amendment is marked in ***bold and italic type*** or with deletion line.