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Paper for the House Committee meeting

**Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund
Schemes Ordinance (Amendment of Schedule 3) Notice 2013**

Purpose

This paper reports on the deliberations of the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 ("the Schedule 2 Notice") and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 ("the Schedule 3 Notice").

Background

2. Under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO"), an employer and a relevant 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 a MPF scheme. However, if the relevant income of the employee or SEP concerned is less than the prescribed Minimum Level of Relevant Income ("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 lower-paid employees and SEPs. For a relevant employee or SEP whose relevant income is above the prescribed Maximum Level of Relevant Income ("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.

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 levels. The current prescribed Min RI and Max RI are \$6,500 and \$25,000 per month respectively.

Schedule 2 Notice and Schedule 3 Notice ("the Notices")

4. The Secretary for Financial Services and the Treasury has given notice to move two motions at the Legislative Council ("LegCo") meeting of 19 June 2013 to seek the LegCo's approval of the Schedule 2 Notice and the Schedule 3 Notice made by the Chief Executive in Council ("the CE in Council") on 28 May 2013 under section 48 of MPFSO.

The Schedule 2 Notice

5. The Schedule 2 Notice seeks to increase the Min RI from the current level (column 2 below) to the new level (column 3 below) as follows -

Category	Current Min RI	New Min RI
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	\$6,500 per month	\$7,100 per month
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated more frequently than on a monthly basis	\$250 per day	\$280 per day
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated less frequently than on a monthly basis	\$6,500 per month as prorated	\$7,100 per month as prorated
Casual employee who is a member of an industry scheme	\$250 Per day	\$280 per day
SEP	\$6,500 per month or \$78,000 per year	\$7,100 per month or \$85,200 per year

6. If the LegCo approves the Schedule 2 Notice, the new Min RI will take

effect on 1 November 2013.

The Schedule 3 Notice

7. The Schedule 3 Notice seeks to increase the Max RI from the current level (column 2 below) to the new level (column 3 below) as follows -

Category	Current Max RI	New Max RI
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	\$25,000 per month	\$30,000 Per month
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated more frequently than on a monthly basis	\$830 per day	\$1,000 per day
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated less frequently than on a monthly basis	\$25,000 per month as prorated	\$30,000 per month as prorated
Casual employee who is a member of an industry scheme	\$830 per day	\$1,000 per day
SEP	\$25,000 per month or \$300,000 per year	\$30,000 per month or \$360,000 per year

8. If the LegCo approves the Schedule 3 Notice, the new Max RI will take effect on 1 June 2014.

The Subcommittee

9. At the House Committee meeting held on 7 June 2013, members agreed to form a Subcommittee to study the Notices. At the request of the House Committee, the Secretary for Financial Services and the Treasury wrote to the Clerk to LegCo on 10 June 2013 to withdraw his notice to move the Notices at the Council meeting of 19 June 2013. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee has held one meeting to discuss with the Administration and representative of MPFA. The membership list of the Subcommittee is in **Appendix I**.

Deliberations of the Subcommittee

10. In the course of deliberation of the Notices, members have examined the impact of the new level of the Min RI and Max RI and the implementation schedule.

Impact of the Min RI and Max RI

11. The Subcommittee notes that the Administration has adopted the recommendation of MPFA to follow the methodology for adjusting the Min RI in 2011, and made reference to the new statutory minimum wage ("SMW") rate of \$30, the latest statistics on the median daily working hours of the four low-paying sectors (9 hours) and assuming a 26-working day per month arrangement for determining the new monthly Min RI of \$7,100. As to the new daily Min RI of \$280, the Administration has followed the practice adopted in the last amendment to assume a 26-day basis in converting the new monthly Min RI into a new daily income level as the new daily Min RI.

12. Regarding the Max RI, the Subcommittee notes that MPFA's 2010 review findings based on Q3 2010 data showed that consideration should be given to increasing the Max RI from \$20,000 to \$30,000. However, the Administration then has received comments from employers' associations that businesses, especially small and medium enterprises, are digesting the cost implications of SMW and absorbing an increase in Max RI would be difficult. On the other hand, there were also views that Max RI has not been adjusted since the implementation of the MPF System in 2000 and there was a need to increase savings for the employees. To balance the views of different sectors of the community, the Max RI was last increased from \$20,000 to \$25,000, instead of \$30,000, effective from June 2012.

13. The Subcommittee also notes that the Administration has accepted the recommendation of MPFA to take the opportunity to increase the monthly Max RI to \$30,000 to achieve a greater coverage of income distributions, noting that the 90th percentile of income intended in MPFSO for review of the Max RI has reached \$35,000 as at Q3 2012. With respect to the new daily Max RI of \$1,000, the Administration has continued to adopt a 30-day basis in converting the new monthly Max RI into a new daily income level as the new daily Max RI.

14. As regards the number of persons to be affected by the new Min RI and the total amount of MPF contributions to which the employees or SEPs to be exempted from, the Administration has advised that based on Q3 2012 data, the MPFA's projection of the number of employees and SEPs whose income is less

than the current Min RI (\$6,500) and the proposed Min RI (\$ 7,100) is 221 800 and 283 500 respectively. Whereas the projected amount of MPF contributions to be exempted from the lower income employees and SEPs will be \$44.04 million for the current Min RI and \$65.13 million for the proposed Min RI per month. The Administration advises that it is expected that the number of persons concerned would be reduced following the implementation of the revised SMW on 1 May 2013 and the expected impact is not reflected in the information above.

15. The Subcommittee has expressed concern over the impact of the proposed reduction of accrued benefits for the lower income employees upon their retirement. It has also examined whether the Government would pay the exempted amount of contributions on behalf of those lower income workers whose income is below \$7,100.

16. The Administration explains that Hong Kong adopts a three-pillar model for retirement protection.¹ The MPF system is to assist the working population to prepare for retirement through contributions by themselves and their employers. The Government helps address the retirement protection of those in need of subsidies through the non-contributory social security system as the safety net. The three pillars complement each other.

Review mechanism and frequency of review

17. The Subcommittee notes that MPFSO requires MPFA to review the Min RI and Max RI at least once in every four years, but does not contain provisions relating to the mandatory adjustment of the Min RI and Max RI as well as the frequency of the adjustment. When the Min RI was last revised in November 2011, the Subcommittee of the LegCo welcomed MPFA's plan to conduct a comprehensive review of the statutory adjustment mechanism under MPFSO as the implementation of SMW would have direct impact on the earnings of lower income groups and had possible rippling effect on the earnings of the rest of the workforce. MPFA is currently reviewing the statutory adjustment mechanism under MPFSO. Public consultation is expected to be conducted in 2013.

18. The Subcommittee notes that based on Q3 2012 data, the proposed adjustment of Max RI from \$25,000 to \$30,000 per month would increase the monthly contributions of 377 200 employees (and their employers) and 71 600 SEPs. As for the increase of Max RI from \$25,000 to \$30,000, employees who earn more than \$25,000 would be required to pay an additional \$250 at most per month. The Administration does not consider this adjustment will have any significant impact on the family of employees in this income band.

¹ According to the Administration, Hong Kong has all along been adopting a three-pillar model for retirement protection: i) the non-contributory social security system (comprising the Comprehensive Social Security Assistance, ii) the MPF system and iii) private savings.

Implementation Schedule

19. The Subcommittee has examined the implementation schedule of the Min RI and Max RI.

20. The Subcommittee notes that the new SMW has taken effect from 1 May 2013 and due to the time required for the adjustment of employer's payroll system and MPF scheme administration system by employers and trustees and for publicity by MPFA, the Administration recommends that the revised Min RI should take effect on 1 November 2013.

21. The Subcommittee also notes the Administration's recommendation that the revised Max RI be put into force on 1 June 2014 i.e. two years after last adjustment became effective. While the different implementation timetables for Min RI and Max RI may necessitate extra efforts in changing the systems and procedures of trustees and employers, the Administration considers it a reasonable arrangement to address the concerns of employers and employees, including the concern over increased business cost caused by MPF mandatory contributions. In this connection, it is pointed out that the last adjustments to Min RI and Max RI also adopted different commencement dates.

22. Majority of the members agree to the staggered implementation schedule of the Min RI and Max RI, though some members request the Administration to consider the simultaneous implementation of both on 1 November 2013. There is an opinion that the employers will have to contribute an extra \$3,000 a year or \$250 per month at most for an employee after the increase of Max RI to \$30,000 to provide better retirement benefits of staff who are believed to be middle to senior management. Some members share that other than the employers who have to pay \$250 extra per month for each employee, the employees themselves also have to contribute the extra same amount in addition to current contribution. Since the extra contribution will reduce the level of disposable income, some employees are against the early implementation. Therefore, the simultaneous implementation of both RIs might not be welcome by all employees.

23. The Administration expresses that different bodies including the Labour Advisory Board, comprising representations of both employers and employees, and the MPFS Advisory Committee have been consulted regarding the current proposed implementation schedule. According to the Administration, an employee representative and some employer representatives are against early implementation of the Max RI on account of the fact that the last adjustment was only introduced about a year ago, i.e. June 2012. It is stressed that the current proposal already seeks to balance the diverse views of different parties.

Recommendation

24. The Subcommittee will not propose any amendment to the Notices and has no objection to the Secretary for Financial Services and the Treasury giving notice for moving motions at the LegCo meeting of 17 July 2013 to seek the LegCo's approval of the Schedule 2 Notice and Schedule 3 Notice so as to enable the implementation of the new Min RI of \$7,100 on 1 November 2013 and the new Max RI of \$30,000 on 1 June 2014.

Advice sought

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

Council Business Division 1
Legislative Council Secretariat
8 July 2013

**Subcommittee on Mandatory Provident Fund Schemes Ordinance
(Amendment of Schedule 2) Notice 2013 and Mandatory Provident Fund
Schemes Ordinance (Amendment of Schedule 3) Notice 2013**

Membership List

Chairman Hon WONG Ting-kwong, SBS, JP

Members Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Hon CHUNG Kwok-pan

(Total : 14 Members)

Clerk Ms Sophie LAU

Legal Adviser Ms Wendy KAN