

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1322/12-13(03)

Ref: CB1/SS/11/12

**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**

**Background brief**

**Purpose**

This paper provides background information on the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2013 ("the 2013 Schedule 2 Notice") and Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2013 ("the 2013 Schedule 3 Notice"). It also provides a summary of the relevant discussion of the Council, the Panel on Financial Affairs ("FA Panel") and two Subcommittees on two relevant resolutions proposed by the Administration in 2011.

**Background**

Current Minimum Relevant Income Level and Maximum Relevant Income Level

2. Under section 7A of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO"), each employee and employer has to contribute 5% of the relevant income as mandatory contributions, subject to the minimum and maximum levels of relevant income. The minimum and maximum levels of relevant income are currently prescribed in Schedules 2 and 3 to MPFSO as \$6,500 and \$25,000 per month respectively. A relevant employee or self-employed person ("SEP") earning less than the minimum level of relevant income ("Min RI") is not required to contribute to an Mandatory Provident Fund ("MPF") scheme while the employer of the employee still has to contribute for the employee. A relevant employee or SEP earning more than the maximum level of relevant income ("Max RI") is not required to contribute

to an MPF scheme in respect of the earnings in excess of that maximum level. The employer of the employee is also not required to contribute for the employee in excess of that maximum level. Pursuant to section 48 of the MPFSO, the Chief Executive in Council may by notice published in the Gazette amend these two schedules subject to the approval of the Legislative Council ("LegCo").

3. The purpose of setting Min RI for MPF mandatory contributions is to lessen the financial burden of MPF contributions on lower-paid employees and SEPs. As for the stipulation of Max RI, it reflects the policy objective of encouraging the workforce to save for basic retirement needs. Higher-income employees and SEPs may decide whether to top up their retirement savings through voluntary contributions or other investment.

#### Review by the Mandatory Provident Fund Schemes Authority

4. Section 10A of the MPFSO requires that the Mandatory Provident Fund Scheme Authority ("MPFA") conducts a review on Min RI and Max RI not less than once in every four years. The MPFA conducted a review in 2010 in accordance with the mechanism stipulated in the Ordinance which builds on the monthly employment earnings data compiled from the General Household Survey conducted by the Census and Statistics Department. During the last adjustment exercise, there were views that the adjustment mechanism of Min RI should be updated having regard to the implementation of the Statutory Minimum Wage ("SMW") on 1 May 2011.

5. The existing Min RI was set with reference to, among other things, the first SMW rate of \$28. Currently, the MPFA is reviewing the statutory adjustment mechanism and pending its completion, it has conducted an interim review of the relevant income levels in light of the increase of SMW rate to \$30 effective from 1 May 2013. MPFA proposed to increase Min RI and Max RI to \$7,100 and \$30,000 respectively, and the two levels are to take effect at the same time approximately three months from passage of the necessary resolutions by LegCo.

6. According to the Administration, it has adopted the recommendation of MPFA to follow the methodology for adjusting the Min RI in 2011, and made reference to the new 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 HK\$7,100. As to the new daily Min RI of HK\$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. The Administration has also adopted the recommendation of MPFA to take the opportunity to increase the monthly Max

RI to HK\$30,000 to achieve a greater coverage of income distributions, noting that the 90<sup>th</sup> percentile of income intended in the Ordinance for review of the Max RI has reached HK\$35,000 as at the third quarter of 2012.

### **Relevant resolutions passed by the Council in 2011**

7. On 14 June 2011, the Administration gave notice to move at the Council meeting on 29 June 2011 a motion on the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 ("the 2011 Schedule 2 Notice") and the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 ("the 2011 Schedule 3 Notice"). The two Notices essentially increased 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 respectively. At the meeting of the House Committee on 17 June 2011, Members agreed to form two separate subcommittees to study the 2011 Schedule 2 Notice and the 2011 Schedule 3 Notice. The two subcommittees did not propose any amendment to the 2011 Schedule 2 Notice and the 2011 Schedule 3 Notice. The Council passed the two proposed resolutions at the meetings of 30 June 2011 and 23 November 2011 respectively.

### **The legislative proposals**

8. The Secretary for Financial Services and the Treasury gave notice to move two motions at the LegCo meeting on 19 June 2013 to seek the LegCo's approval of the 2013 Schedule 2 Notice and the 2013 Schedule 3 Notice respectively. At the House Committee meeting on 7 June 2013, Members agreed to form a Subcommittee to study the two notices.

#### The 2013 Schedule 2 Notice

9. The 2013 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 -

<b>Category</b>	<b>Current Min RI</b>	<b>New Min RI</b>
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	HK\$6,500 per month	HK\$7,100 per month

<b>Category</b>	<b>Current Min RI</b>	<b>New Min RI</b>
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	HK\$250 per day	HK\$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	HK\$6,500 per month as prorated	HK\$7,100 per month as prorated
Casual employee who is a member of an industry scheme	HK\$250 per day	HK\$280 per day
SEP	HK\$6,500 per month or HK\$78,000 per year	HK\$7,100 per month or HK\$85,200 per year

10. As stated in the 2013 Schedule 2 Notice, if the LegCo approves the Notice, the new Min RI will take effect on 1 November 2013.

The 2013 Schedule 3 Notice

11. The 2013 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 -

<b>Category</b>	<b>Current Max RI</b>	<b>New Max RI</b>
For a relevant employee (not being a casual employee who is a member of an industry scheme) who is remunerated on a monthly basis	HK\$25,000 per month	HK\$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	HK\$830 per day	HK\$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	HK\$25,000 per month as prorated	HK\$30,000 per month as prorated
Casual employee who is a member of an industry scheme	HK\$830 per day	HK\$1,000 per day

<b>Category</b>	<b>Current Max RI</b>	<b>New Max RI</b>
SEP	HK\$25,000 per month or HK\$300,000 per year	HK\$30,000 per month or HK\$360,000 per year

12. As stated in the 2013 Schedule 3 Notice, if the LegCo approves the Notice, the new Max RI will take effect on 1 June 2014.

#### Other amendments

13. According to the Legislative Council Brief, consequential amendments will be made to the Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order (Cap. 485 sub. leg. E) and the Inland Revenue Ordinance (Cap. 112) later if LegCo approves the two Notices.

#### **Discussion by the Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 and Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011**

14. The major concerns/views expressed by members of the two Subcommittees and the Administration/MPFA's responses are summarized in the ensuing paragraphs.

#### The Minimum Relevant Income level

15. Members enquired about the basis upon which the proposed Min RI of \$6,500 per month was arrived at, and whether the proposed Min RI had gone through proper public consultation. The Administration advised that when the findings of the latest review of Min RI and Max RI were presented to FA Panel in February 2011, some Panel members and non-Panel Members attending the meeting stressed the need for the Administration and MPFA to take into account the effects of SMW in setting Min RI as otherwise the actual take-home pay of some low-income earners might be reduced. To further gauge views on the Min RI and Max RI levels, FA Panel convened a public hearing in April 2011 for views from stakeholders. There was a general consensus that the Min RI level should be increased to about \$6,500 per month. Taking into account the views received, the Administration had made reference to, among others, the hourly SMW rate and the median monthly working hours in determining Min RI. The Administration considered that the proposed increase in Min RI from \$5,000 to \$6,500 was acceptable and had reflected the broad-based consensus of the public.

### Implementation schedule

16. Pointing out that the objective of Min RI was to lessen the financial burden of MPF contribution on low-paid employees, some members suggested that efforts should be made to expedite the implementation of new Min RI scheduled for 1 November 2011. The Administration advised that trustees and employers should be given reasonable time to adjust their systems to the new Min RI. Some members however pointed out that trustees should have the responsibility and financial capability to adjust their systems within a very short time, given that this was not the first time when Min RI was revised. The Administration emphasized the need for trustees to draw up user requirements and test the new systems regardless of whether the adjustments involved were simple or complicated in nature. The employers also need time to adjust their relevant systems. Given the many tasks involved and the views received from trustees and employers, the Administration and MPFA considered the proposed commencement date would strike a reasonable balance.

17. Noting that the Administration had recommended the new Min RI and Max RI to come into operation on 1 November 2011 and 1 June 2012 respectively, some members questioned the rationale for implementing the new Min RI and Max RI by different phases and expressed concern that the delay in adjusting Max RI might constitute discrimination.

18. The Administration advised that in finalizing the legislative proposal on the Max RI and the implementation timeframe, the Administration and MPFA had consulted relevant stakeholders including advisory bodies and FA Panel. The Administration pointed out that the proposal of increasing Max RI had the support of political parties and a number of employers' and employees' associations, albeit their preferences varied 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 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. The Administration and MPFA considered that the proposed increase of Max RI to \$25,000 with effect from 1 June 2012 had struck an appropriate balance between addressing the basic retirement needs of the working population and their present livelihood having regard to the views received. The Administration also advised that the proposed implementation date of 1 June 2012 aimed to allow reasonable time for both employers and employees to adjust to the new contribution level.

## **Discussion by the Panel on Financial Affairs**

19. The Administration and MPFA briefed FA Panel on 4 March 2013 on the proposed amendments to Min RI and Max RI. Panel members noted the key recommendation of MPFA to implement the increase of Min RI and Max RI with simultaneous effect for administrative efficiency three months from the approval of the relevant subsidiary legislative by LegCo. Members have no objection to MPFA's proposals. The Administration later decided to change the effective date for amendments to Min RI and Max RI to 1 November 2013 and 1 June 2014 respectively. The major concerns/views expressed by Panel members and the Administration/MPFA's responses are summarized in the ensuing paragraphs.

20. Pointing out that the weighted average fund expense ratio of MPF was as much as 1.75%, and the findings of a consultancy study commissioned by MPFA indicated that an increase in the scale of MPF assets would bring about benefits of economies of scale and help drive cost reductions, members enquired whether the increase in total MPF contributions as a result of the proposed adjustments to Min RI and Max RI would bring about MPF fee reductions.

21. MPFA responded that an increase in the scale of MPF assets should in principle create room for reduction of administration costs on a per dollar basis. Nevertheless, how the reduction in costs would be reflected in fees would be a slightly different matter. MPFA stressed that it would continue to collaborate with the Government and the legislature in pursuing relevant measures to ensure any cost savings could be passed onto MPF scheme members in the form of lower fees and charges.

22. In response to members' enquiry about whether the timing of the future reviews of Min RI and Max RI would align with that of SMW rate which was currently reviewed every two years, the Administration pointed out that during the statutory review exercise conducted in 2010, there were views that the adjustment mechanism should be reviewed having regard to the implementation of SMW, and MPFA was currently conducting a comprehensive review of the statutory adjustment mechanism. Subject to progress of review and consultation, the new adjustment mechanism might be in place after 2014.

23. Noting that more employees would no longer be required to make the employee's mandatory contributions with the proposed increase in Min RI, some members were concerned that the retirement protection for these scheme members would be undermined as their accrued MPF benefits would be reduced. The problem would be further aggravated as the accrued benefits attributable to employers' contributions could be used for offsetting the

Severance Payment or Long Service Payment payable by employers ("SP/LSP offsetting arrangement"). Members enquired about the Administration's plan in implementing the policy initiative in the Chief Executive's election manifesto to progressively reduce the proportion of accrued benefits attributable to employers' contributions that could be applied for SP/LSP offsetting arrangement, and urged the Administration to expedite action in this regard as abolition of the offsetting arrangement would facilitate implementation of full portability arrangement for the MPF Scheme in future.

24. The Administration responded that the MPF system was only one of the three pillars of the retirement protection in Hong Kong that complemented voluntary private savings and the social security system. The issue of SP/LSP offsetting arrangement had been widely discussed before the MPF system was introduced, and there were still diverse views among different stakeholders on the matter. Before the community could reach a consensus on the offsetting arrangement, the Administration considered it practical to focus efforts on reducing MPF fees and charges at this stage.

### **Discussions at Council meetings**

25. At the Council meeting on 1 December 2010, Members passed a motion on "Comprehensively reviewing the Mandatory Provident Fund Scheme" moved by Hon WONG Kwok-kin and as amended by Hon CHAN Kin-por, Hon Ronny TONG Ka-wah and Hon Paul CHAN Mo-po. One of the proposed review issues in the motion was "to review the appropriateness of the existing minimum and maximum levels of income, including that the minimum level of income should be higher than the minimum wage, as well as the percentages of contributions, so as to ensure that the amounts of MPFs are adequate to meet post-retirement expenditure".

26. At the Council meeting of 2 March 2011, Hon Mrs Regina IP raised a written question on "Minimum level of relevant income for Mandatory Provident Fund contributions". Mrs IP pointed out that with the implementation of SMW, the wages of some employee originally below Min RI might increase and exceed Min RI. Since these employees would have to contribute 5% of their income as mandatory MPF contributions, they might suffer from a reduction in actual income. Mrs IP enquired how the Administration would address this issue. The Administration responded that as Min RI would be increased as appropriate, the scenario mentioned by Mrs IP would not occur.



**Relevant papers**

27. A list of relevant papers is in the **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
17 June 2013

## Appendix

### List of relevant papers

Date	Event	Papers/Minutes of meeting
1 December 2010	The Legislative Council ("LegCo") passed the motion on 'Comprehensively reviewing the Mandatory Provident Fund Scheme'	<a href="#">Hansard</a> <a href="#">Wording of the motion passed</a> <a href="#">Progress report</a>
2 March 2011	Hon Mrs Regina Ip raised a written question on "Minimum level of relevant income for Mandatory Provident Fund contributions"	<a href="#">Hansard</a>
June 2011	The Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011 scrutinized the Notice concerned	<a href="#">Terms of Resolution</a> <a href="#">Legislative Council Brief</a> <a href="#">Report of the Subcommittee (LC Paper No. CB(1) 2599/10-11)</a>
30 June 2011	LegCo passed the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 2) Notice 2011	<a href="#">Hansard</a>
June to October 2011	The Subcommittee on Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011 scrutinized the Notice concerned	<a href="#">Terms of Resolution</a> <a href="#">Legislative Council Brief</a> <a href="#">Report of the Subcommittee (LC Paper No. CB(1) 241/11-12)</a>
23 November 2011	LegCo passed the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 3) Notice 2011	<a href="#">Hansard</a>

Date	Event	Papers/Minutes of meeting
4 March 2013	The Panel on Financial Affairs was consulted on proposed amendments to relevant income level for the purpose of mandatory contribution under the Mandatory Provident Fund Schemes Ordinance	<p><a href="#">Discussion paper</a> (LC Paper No. CB(1)599/12-13(05))</p> <p><a href="#">Minutes</a> (LC Paper No. CB(1)1131/12-13)</p>
29 May 2013	The Secretary for Financial Services and the Treasury gave notice to LegCo with a view to moving 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")	<p>Terms of Resolution <a href="#">The Schedule 2 Notice</a> <a href="#">The Schedule 3 Notice</a></p> <p>Legislative Council Brief <a href="#">The Schedule 2 Notice</a> <a href="#">The Schedule 3 Notice</a></p> <p><a href="#">Legal Service Division report</a> (LC Paper No. LS 58/12-13)</p>