

立法會
Legislative Council

LC Paper No. CB(1)421/14-15
(These minutes have been seen
by the Administration)

Ref : CB1/BC/10/13

**Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2014**

**Minutes of fifth meeting on
Monday, 17 November 2014, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon CHAN Kin-por, BBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, JP
Hon WONG Kwok-kin, SBS
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Hon CHUNG Kwok-pan
- Members absent** : Hon Cyd HO Sau-lan, JP
Hon LEUNG Kwok-hung
- Public officers attending** : Mr Eddie CHEUNG
Deputy Secretary for Financial Services and the
Treasury (Financial Services) 2

Miss Susanna LAI
Principal Assistant Secretary for Financial
Services and the Treasury (Financial Services)³

Miss Elaine NG
Senior Government Counsel
Department of Justice

Mr Alex LAI
Government Counsel
Department of Justice

Attendance by invitation : Mr Darren McSHANE
Chief Regulation & Policy Officer and
Executive Director
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Head (Policy Development and Research)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Ms Annette LAM
Chief Council Secretary (1)³

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Connie HO
Senior Council Secretary (1)³

Action

- I. Confirmation of minutes of meetings**
- | | | |
|------------------------------|----|---|
| (LC Paper No. CB(1)177/14-15 | -- | Minutes of meeting held on 7 October 2014 |
| LC Paper No. CB(1)218/14-15 | -- | Minutes of meeting held on 27 October 2014) |

The minutes of meetings held on 7 October and 27 October 2014 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)217/14-15(01) -- List of follow-up actions arising from the discussion at the meeting on 27 October 2014

LC Paper No. CB(1)217/14-15(02) -- The Administration's responses to follow-up actions arising from discussion at the meeting on 27 October 2014

LC Paper No. CB(1)217/14-15(03) -- The Administration's responses to the public/organizations' comments

Clause-by-clause examination of the Bill

Starting from clause 21

LC Paper No. CB(3)762/13-14 -- The Bill

LC Paper No. CB(1)2021/13-14(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only))

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up action required of the Administration

3. The Administration was requested to:

(a) provide its feedback to the following proposals:

(i) reducing the number of minimum free-of-charge withdrawals of Mandatory Provident Fund ("MPF") accrued benefits by

scheme members from at least 12 times a year as proposed by the Bill to say, no more than four times a year, or setting a minimum amount for each withdrawal to reduce the administrative cost of trustees arising from the phased withdrawal arrangement;

- (ii) allowing early withdrawal of MPF accrued benefits by a scheme member who had been certified by a registered medical practitioner or a registered Chinese medicine practitioner of having a "terminal illness" without the need of defining "remaining life expectancy";
 - (iii) including "critical illness" as an additional ground for early withdrawal of MPF accrued benefits;
- (b) assess the impact of the adoption of "critical illness" as a ground of early withdrawal of MPF accrued benefits, in addition to the existing "total incapacity" ground for early withdrawal or as an alternative to the "terminal illness" ground for scheme members suffering from serious illness to withdraw their MPF accrued benefits early;
- (c) advise whether allowing early withdrawal of MPF accrued benefits for treatment of terminal illness/critical illness would affect scheme members' eligibility for various financial assistance schemes from the Government; and
- (d) clarify, in respect of the first 12 instalments under the proposed section 35B of the Mandatory Provident Fund Schemes (General) Regulation (Cap.485A), whether the setting of a minimum amount per withdrawal by trustees in an agreement made with a scheme member concerned was permissible under the amended Regulation.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)/305/14-15(02) on 28 November 2014.)

Date of next meeting

4. The Chairman reminded members that the next meeting would be held on Tuesday, 2 December 2014 at 4:30 pm to meet with the Administration.

III. Any other business

5. There being no other business, the meeting ended at 12:42 pm.

Council Business Division 1
Legislative Council Secretariat
12 January 2015

**Proceedings of the fifth meeting of
the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2014
on Monday, 17 November 2014, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000430	Chairman	Opening remarks	
000431 – 000450	Chairman	Confirmation of minutes of meetings on 7 October and 27 October 2014	
000451 – 000852	Chairman Administration	<u>Briefing by the Administration on its responses to the follow-up actions arising from discussion at the meeting on 27 October 2014 (LC Paper No. CB(1)217/14-15(02))</u> Members raised no questions.	
000853 – 001106	Chairman Administration	<u>Briefing by the Administration on its responses to the public/organizations' comments (LC Paper No. CB(1)217/14-15(03))</u>	
001107 – 001202	Chairman Mr WONG Ting-kwong Administration	<u>(LC Paper No. CB(1)217/14-15(03): P.1-P.2)</u> <u>Phased withdrawal of accrued benefits</u> <u>Withdrawal arrangements</u> In response to Mr WONG Ting-kwong's enquiry on whether members would be required to make separate applications for individual withdrawals, the Administration advised that scheme members could provide trustees with standing instructions setting out the amount and interval of withdrawals such that trustees could act accordingly.	
001203 – 001520	Chairman Administration	The Chairman relayed the Mandatory Provident Fund ("MPF") industry's concern that the proposed minimum free-of-charge withdrawal arrangements of accrued benefits (i.e. trustees were statutorily required to process at least 12 withdrawal requests made by a scheme member per year free of charge) without a minimum amount set for such withdrawals would increase the operating costs of trustees. He enquired whether the Administration would consider revising the proposal. The Administration responded that –	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) the proposal for phased withdrawal of accrued benefits proposed under the Bill was devised upon the outcome of consultation with the public, stakeholders and the Panel on Financial Affairs ("FA Panel") of the Legislative Council;</p> <p>(b) in the original proposal discussed by the FA Panel, the Administration proposed that a trustee should entertain a scheme member's request for phased withdrawals free-of-charge at least four times a year. After taking into account the views of FA Panel members, the Administration revised the proposal that a trustee should entertain such withdrawals free-of-charge at least 12 times a year;</p> <p>(c) the current proposal had balanced between the need for providing flexibility to scheme members and maintaining administrative efficiency and cost effectiveness of the MPF System; and</p> <p>(d) the Administration welcomed further discussion with stakeholders, including the industry, over the minimum number of free-of-charge withdrawal a year and the rationale for setting a minimum withdrawal amount.</p>	
001521 – 002257	Chairman Ms Starry LEE Mr LEE Cheuk-yan Administration	<p>Ms Starry LEE's views -</p> <p>(a) FA Panel members' suggestion of increasing the frequency of minimum free-of-charge withdrawals of accrued benefits from four times to 12 times a year aimed to provide scheme members with enhanced flexibility under the proposed phased withdrawal arrangements to meet their financial management needs; and</p> <p>(b) the proposals for reducing the frequency of free withdrawals and setting a minimum amount for such withdrawals could be considered in the light of the MPF industry's concern about the impact of the phased withdrawal arrangements on the operating costs of trustees, which might be shared by all scheme members in the MPF System.</p>	

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		<p>The Administration supplemented that -</p> <ul style="list-style-type: none">(a) if a minimum withdrawal amount was stipulated in the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) ("the Regulation"), any future revisions to the amount would require legislative amendments; and(b) the present wording of the new section 35B of the Regulation did not prohibit trustees from agreeing with scheme members on other withdrawal administrative requirements such as setting a minimum withdrawal amount for each free phased withdrawal and setting out such administrative requirements in the governing rules of MPF schemes, which would require approval by the Mandatory Provident Fund Schemes Authority ("MPFA"). <p>Mr LEE Cheuk-yan's view and enquiry -</p> <ul style="list-style-type: none">(a) although trustees were not allowed to charge any fees on scheme members for the first 12 phased withdrawals in a year under the Bill, the additional cost arising from the provision of such a service would in fact be embedded in the general administration cost of the MPF schemes and shared by all scheme members eventually. In other words, the first 12 withdrawal requests of scheme members were not processed by trustees "free of charge"; and(b) how MPFA could discharge its gate-keeping role to curb further increases in MPF fees and charges given that the costs arising from the phased withdrawal arrangements would inflate the overall administration cost of MPF schemes. <p>The Administration responded that –</p> <ul style="list-style-type: none">(a) it was important to maintain a simple and efficient administrative withdrawal framework in order to keep the associated costs as low as practicable. Having more withdrawals, as with all service elements, would result in higher administrative costs.	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration aimed to strike a reasonable balance between providing scheme members with greater flexibility in withdrawal and maintaining efficiency and cost-effectiveness of the MPF System in preparing the phased withdrawal proposal; and</p> <p>(b) MPFA would critically consider trustees' requests for any increase in MPF fees and the fee structure of products under MPF schemes, including the general administration cost.</p> <p><u>The Chairman</u> advised that the Administration should study controlling the administration cost arising from the phased withdrawal arrangements either by reducing the frequency of free withdrawals or setting a minimum amount in respect of such withdrawals.</p>	
002258 – 002725	Chairman Mr Kenneth LEUNG Administration	<p><u>Mr Kenneth LEUNG</u> was concerned that trustees might widen the spread (i.e. the difference between the bid and the ask price of a security or asset) in transactions to cover the costs arising from the implementation of the proposed phased withdrawal arrangements.</p> <p>The Administration advised that pursuant to section 34 of Cap. 485A, spread could only be used to cover the necessary transaction costs (i.e. the costs incurred by trustee in selling or purchasing investments in order to give effect to the transfer of accrued benefits) and not the trustee's administration cost. At present, no trustees had been using spread to cover the transaction costs.</p>	
002726 – 003518	Chairman Mr CHUNG Kwok-pan Administration	<p>Mr CHUNG Kwok-pan's views and concerns -</p> <p>(a) the Administration should fix the frequency of minimum free-of-charge withdrawals that could be made by scheme members in a year. Allowing different frequency of withdrawals would complicate the administration of MPF schemes/funds and rendered it difficult for trustees to estimate the additional manpower required for implementing the proposed phased withdrawal arrangements; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) disputes might arise should the setting of a minimum amount of withdrawal be decided between trustees and scheme members.</p> <p><u>The Chairman</u> reiterated his view that in line with the Administration's overall policy direction of driving down MPF fees and charges, the Administration should consider containing the administration cost arising from the proposed minimum free-of-charge phased withdrawal arrangements by reducing the number of free withdrawals a year or setting a minimum amount for each withdrawal.</p> <p>The Administration responded that –</p> <p>(a) the cost of withdrawals should be transaction-based. Under the proposed phased withdrawal arrangements, trustees should have the incentive to streamline the work and procedures in connection with disbursement of relevant payments to scheme members, for instance, making payments by means of autopay instead of issuing cheques; and</p> <p>(b) when finalising the phased withdrawal arrangements to be included in the Bill, the Administration had taken into account FA Panel members' request for increasing the number of free withdrawals per year. The Administration had also removed the \$5,000 minimum withdrawal amount requirement in the light of comments from stakeholders such as the Consumer Council; and</p> <p>(c) the Administration welcomed further discussion with stakeholders over the phased withdrawal arrangements.</p>	
003519 – 004014	Chairman Mr LEE Cheuk-yan Administration	<p>Mr LEE Cheuk-yan suggested setting out the fee schedule for different payment arrangements (e.g. the respective costs for making four times, eight times and 12 times of withdrawals in a year) of accrued benefits in the Offering Documents to enhance transparency of the costs arising from the proposed phased withdrawal arrangements.</p> <p>The Administration responded that –</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) the Bill had proposed adding provisions in the Regulation to require trustees not to charge any fees, impose any fines or deduct any amounts from scheme members' accounts for the first 12 phased withdrawals each year, other than necessary transaction costs; and</p> <p>(b) upon implementation of the arrangements of phased withdrawal of accrued benefits, trustees would update the Offering Documents to stipulate the fees for the 13th and subsequent withdrawals if they decided to offer such service. MPFA was responsible for approving the Offering Documents and any subsequent amendments, and would continue to monitor the fees charged to scheme members to ensure that such fees were reasonable.</p>	
<p>004015 – 004530</p>	<p>Chairman Mr TANG Ka-piu Administration</p>	<p>Mr TANG Ka-piu's view and enquiry -</p> <p>(a) implementation of the phased withdrawal arrangements proposed under the Bill (i.e. scheme members could make up to 12 times of free withdrawals in a year) could provide a framework which could facilitate the introduction of annuity plans by trustees in the future with the accumulation of MPF accrued benefits over time;</p> <p>(b) the proposal for setting a minimum amount of withdrawal should be further deliberated; and</p> <p>(c) whether it was against the law if trustees introduced incentives to encourage scheme members to withdraw their accrued benefits in a lump-sum or in fewer withdrawals after the implementation of the phased withdrawal arrangements.</p> <p>The Chairman's view was that the minimum amount in respect of each free withdrawal should be set out in the law to avoid disputes between scheme members and trustees.</p> <p>The Administration responded that -</p> <p>(a) the enactment of the relevant amendments proposed under the Bill would not prohibit</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>trustees from offering incentives in relation to withdrawals;</p> <p>(b) the Administration had no objection to revert to its original proposal of requiring trustees to handle scheme members' requests for withdrawals at least four times a year free-of-charge; and</p> <p>(c) the Administration was open to the proposal for setting a minimum withdrawal amount, but considered it not advisable to stipulate such an amount in the law.</p>	
004531 – 004612	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p>Mr CHUNG Kwok-pan's suggestion of making reference to the adjustment mechanism of the statutory minimum wage ("SMW") rate whereby the Minimum Wage Commission, a statutory organization established under the Minimum Wage Ordinance (Cap. 608), was tasked with the function of reviewing the SMW rate and reporting to the Chief Executive in Council its recommendation in relation to the adjustment of SMW rate. Amendments to Cap. 608 were not required to give effect to the revision to the SMW rate.</p>	
004613 – 005014	<p>Chairman Administration</p>	<p><u>(LC Paper No. CB(1)217/14-15(03): P.2-P.5)</u></p> <p><u>Costs and fees</u></p> <p><u>Operations arrangements</u></p> <p><u>Tax arrangements</u></p> <p><u>Clause 23 of the Bill (drafting-related)</u></p> <p><u>Clause 25 of the Bill (drafting-related)</u></p> <p><u>Publicity and education</u></p> <p>Members raised no questions.</p>	
005015– 005537	<p>Chairman Mr CHUNG Kwok-pan Mr SIN Chung-kai Mr KWOK Ka-ki Administration</p>	<p><u>(LC Paper No. CB(1)217/14-15(03): P.5-P.6)</u></p> <p><u>Allowing Early Withdrawal of Accrued Benefits on Terminal Illness Ground – The definition of "remaining life expectancy"</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Mr CHUNG Kwok-pan's views -</p> <p>(a) medical practitioners were reluctant to assess the remaining life expectancy of a patient suffering from terminal illness as such assessment would bring anxiety to the patient's family; and</p> <p>(b) questioned the need to define "remaining life expectancy" for early withdrawal of accrued benefits on the ground of terminal illness. Certification by a registered medical practitioner or a registered Chinese medicine practitioner that a scheme member was suffering from a "terminal illness" should suffice to justify the early withdrawal.</p> <p>The Administration responded that -</p> <p>(a) the suggestion of specifying the definition of "remaining life expectancy" aimed to provide a practical mechanism for medical practitioners to make objective assessment to allow scheme members to withdraw accrued benefits early on the ground of "terminal illness"; and</p> <p>(b) the Administration had considered the views received during the public consultation, especially those from medical practitioners. The use of the yardstick of a remaining life expectancy of 12 months or less as proposed under the Bill as the definition of terminal illness was agreed by the medical profession. Such a proposed yardstick was also adopted for similar purposes in the Australian Superannuation System.</p>	
005538 – 010230	Chairman Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai's views that -</p> <p>(a) to minimize the psychological impact on scheme members and their family members, in addition to adopting the yardstick of remaining life expectancy of 12 months or less as proposed under the Bill, the Administration should consider adding "critical illness" as a ground for early withdrawal on the consideration that the concerned scheme member would need money for medical treatment and for meeting</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>their living expenses since they might not be able to continue their work upon onset of the illness; and</p> <p>(b) the relevant lists of "critical illness" and "terminal illness" could be drawn up by making reference to similar lists adopted by the insurance industry or the medical sector.</p> <p>The Administration responded that –</p> <p>(a) unlike the multi-purpose mandatory saving schemes in other jurisdictions which had much higher contribution rates, the MPF System was a dedicated scheme designed solely to assist the workforce in saving for their retirement and its contribution rate was relatively low at 5% only. Any proposal of introducing additional ground for withdrawal of accrued benefits must be carefully considered or it would defeat the purpose of the MPF System;</p> <p>(c) unlike "terminal illness", "critical illness" was not necessarily fatal and scheme members who suffered from "critical illness" might still require retirement protection after recovery. As such, the Administration did not propose to allow early withdrawal of accrued benefits on the ground of "critical illness";</p> <p>(d) allowing early withdrawal of accrued benefits to meet medical expenses meant that there would be less accrued benefits to help meet the retirement needs of the scheme member in future, which was inconsistent with the policy objective of the MPF System; and</p> <p>(e) at present, if a scheme member could no longer perform the work prior to illness, he/she could request for early withdrawal of accrued benefits on the ground of "total incapacity" under Cap. 485.</p>	
010231 – 010824	Chairman Mr KWOK Ka-ki Administration	<p>Mr KWOK Ka-ki's views –</p> <p>(a) it would not be difficult for medical practitioners to provide certifications for terminal illness for scheme members given the clear definitions of these illnesses in the</p>	

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		<p>medical sector;</p> <p>(b) as some expensive drugs that were effective in treating terminal diseases (e.g. target therapy drugs for treatment of terminal stage cancers) were not standard drugs in HA's Drug Formulary, scheme members suffering from terminal diseases would be deprived of the opportunity to receive proper treatment if they were short of funds to procure the relevant drugs;</p> <p>(c) scheme members should have the right to use their MPF accrued benefits for treatment of diseases given that the funds in MPF accounts were in fact their own savings;</p> <p>(d) he urged the Administration not to define "terminal illness" as an illness that was likely to reduce the life expectancy of the scheme member to 12 months or less. He might consider moving Committee Stage amendments ("CSAs") to the effect that a medical certificate issued by a registered medical practitioner or a registered Chinese medicine practitioner that a scheme member had a terminal illness was suffice for making early withdrawal of accrued benefits; and</p> <p>(e) the MPF System was unable to provide sufficient retirement protection for scheme members. The Administration was criticized for its inaction towards the implementation of a universal retirement protection system in Hong Kong.</p> <p>The Administration responded that -</p> <p>(a) the MPF System was a dedicated scheme designed solely to assist the workforce in saving for their retirement and its contribution rate was relatively low at 5% only. Some overseas retirement protection schemes were in fact multi-purpose social savings systems, providing separate sub-accounts to meet other expenditure needs (e.g. medical and property purchase, etc.) and their contribution rates could be as high as 36%;</p> <p>(b) allowing early withdrawal of accrued benefits</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>meant less would be retained for the retirement needs of the scheme member concerned in future. Reasons for allowing early withdrawal must be justified. The Administration should carefully consider whether the suggested new grounds for early withdrawal would defeat the purpose of the MPF System;</p> <p>(c) there were financial assistance schemes to assist patients in procuring medical treatments and drugs, including the target therapy drugs; and</p> <p>(d) the retirement protection system in Hong Kong was in line with the multi-pillar model recommended by the World Bank. The MPF System was complementary to other pillars, namely voluntary private savings and the non-contributory social security system, in providing retirement protection. The MPF System should not be regarded as the sole source of scheme members' retirement funds.</p>	
010825 – 011232	Chairman Mr TANG Ka-piu Administration	<p>In response to Mr TANG Ka-piu's enquiry, the Administration advised that the insurance industry did not have a universal definition or a standard list for "critical illness". The scope of "critical illness" differed depending on the coverage of different insurance policies.</p> <p>At the request of Mr TANG Ka-piu, the Administration would provide information to advise the Bills Committee on the following:</p> <p>(a) the impact of the adoption of "critical illness" as a ground of early withdrawal of MPF accrued benefits, in addition to the existing "total incapacity" ground for early withdrawal or as an alternative to the "terminal illness" ground for scheme members suffering from serious illness to withdraw their MPF accrued benefits early; and</p> <p>(b) whether allowing early withdrawal of MPF accrued benefits for treatment of terminal illness/critical illness would affect scheme members' eligibility for various financial assistance schemes from the Government.</p>	The Administration to take follow-up action as in paragraphs 3(b) & (c) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration also undertook to provide feedback to the following suggestions made by members:</p> <p>(a) reducing the number of free withdrawals of MPF accrued benefits by scheme members from at least 12 times a year as proposed by the Bill to, say, no more than four times a year, or setting a minimum amount for each withdrawal to reduce the administrative cost of trustees arising from the phased withdrawal arrangement;</p> <p>(b) allowing early withdrawal of MPF accrued benefits by a scheme member who had been certified by a registered medical practitioner or a registered Chinese medicine practitioner of having a "terminal illness" without the need of defining "remaining life expectancy"; and</p> <p>(c) including "critical illness" as an additional ground for early withdrawal of MPF accrued benefits.</p>	<p>The Administration to take follow-up action as in paragraphs 3(a)</p>
011233 – 011502	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p><u>Mr CHUNG Kwok-pan</u> concurred with Mr SIN Chung-kai's view that the Administration should consider allowing early withdrawal if a scheme member was certified terminally ill with a remaining life expectancy of 12 months or less as proposed under the Bill or suffering from critical illness.</p>	
011503 – 011924	<p>Chairman Administration</p>	<p><u>(LC Paper No. CB(1)217/14-15(03): P.6-P.10)</u></p> <p><u>Issuing medical certification</u></p> <p><u>Legal liability</u></p> <p><u>Other withdrawal grounds</u></p> <p><u>Approval of New Constituent Funds - To add the new approval criterion of "in scheme members' interests"</u></p> <p>Members raised no questions.</p>	

Time marker	Speaker	Subject(s)	Action required
011925 – 012304	Chairman Mr CHUNG Kwok-pan Administration	<p><u>Review of the approval process</u></p> <p>Discussion on measures (which included promoting account consolidation and enhancing communication between MPFA and the Securities and Futures Commission in the approval process of new MPF schemes/funds etc.) implemented by the Administration with a view to driving down MPF fees.</p>	
012305 – 012856	Chairman Administration	<p><u>(LC Paper No. CB(1)217/14-15(03): P.11-P.18)</u></p> <p><u>Clause 7 of the Bill (drafting-related)</u></p> <p><u>Clause 19 of the Bill (drafting-related)</u></p> <p><u>Other suggestions to enhance fund efficiency and facilitate fee reduction</u></p> <p><u>Electronic Communications - adoption of non-electronic means for managing MPF accounts</u></p> <p><u>Prosecution Time Bar - extending prosecution time bar and fine</u></p> <p><u>Information Disclosure-Principles</u></p> <p><u>Clause 9 of the Bill (drafting-related) - new section 42(1)(caa)</u></p> <p><u>Clause 9 of the Bill (drafting-related) - new section 42(1A)(c)</u></p> <p><u>Other Comments on Drafting of the Bill</u></p> <p>Members raised no questions.</p>	
012857 – 013445	Chairman Administration	<p><u>(LC Paper No. CB(1)217/14-15(03): P.18-P.21)</u></p> <p><u>Other Comments on the MPF System – Fees, Investment, Management, Offsetting severance payments and long service payments</u></p> <p><u>Mr CHUNG Kwok-pan</u> enquired to what extent could the proposed Core Fund ("CF") help drive down MPF fees and which institution(s) would be responsible for managing the CF in the future. The Administration advised that -</p> <p>(a) the management fee of CF was proposed to be</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>capped at 0.75% of assets per annum while its fund expense ratio would be kept at or under 1%; and</p> <p>(b) the operational details of CF were still under consideration by MPFA. Currently, some MPF schemes had already provided low-fee funds for members to choose.</p>	
Clause-by-clause examination of the Bill			
013446 – 013604	Chairman Assistant Legal Adviser 10 (ALA10) Administration	Members agreed to discuss the draft CSAs proposed by the Administration (LC Paper No. CB(1)234/14-15(01) tabled at the meeting) at the next meeting.	
013605 – 013800	Chairman Administration	<p>Part 3 – Amendments to Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)</p> <p><u>Clause 21 – to amend section 2 (interpretation)</u></p> <p><u>Clause 22– to amend section 31 (non-refusal of scheme applicants)</u></p> <p>Members raise no questions.</p> <p>Members noted that the Administration had proposed a CSA to improve the drafting of the proposed section 31(4).</p>	
013801 – 013909	Chairman Administration	<p><u>Clause 23 – to amend section 34 (no fees etc. for transfer of accrued benefits other than necessary transaction costs)</u></p> <p><u>Clause 24 – to amend section 35 (no fees etc. for transfer of accrued benefits in certain circumstances)</u></p> <p>Members raised no questions.</p>	
013910 – 014019	Chairman Administration	<p><u>Clause 25 – to add sections 35A (No fees etc. for payment of accrued benefits in lump sum other than necessary transaction costs) and 35B (Payment of accrued benefits by instalments)</u></p> <p>In the light of the Chairman's concern, the Administration was requested to clarify, in respect of the first 12 instalments under the proposed section 35B, whether the setting of a minimum</p>	The Administration to take follow-up

Time marker	Speaker	Subject(s)	Action required
		<p>amount per withdrawal by trustees in an agreement made with a scheme member concerned was permissible under the Bill.</p> <p>Members noted that the Administration had proposed a CSA to improve the drafting of the proposed section 35B(2).</p>	<p>action as in paragraphs 3(d) of the minutes.</p>
014020 – 014129	Chairman Administration	<p><u>Clause 26 – to amend section 36 (scheme may consist of a single constituent fund or of separate constituent funds)</u></p> <p>Members raised no questions.</p> <p>Members noted that the Administration had proposed a CSA to add a new clause 26A to add a new section 42AA (Transitional provision for Part 4 – Mandatory Provident Fund Schemes (Amendment) Ordinance 2014)</p>	
014130 – 014211	Chairman Administration	<p><u>Clause 27 – to repeal section 55 (approved trustee to give membership certificates to relevant employees)</u></p> <p>Members raised no questions.</p> <p>Members noted that the Administration had proposed a CSA to add a new clause 27A to add a new section 67A (Transitional provision for Part 5 – Mandatory Provident Fund Schemes (Amendment) Ordinance 2014).</p>	
014212 – 014523	Chairman Administration	<p><u>Clause 28 – to amend section 78 (separate accounts for each scheme member)</u></p> <p><u>Clause 29 – to amend section 109 (approved trustee to lodge trustee's return with Authority)</u></p> <p><u>Clause 30 – to amend section 122 (participating employer to calculate relevant income and pay mandatory contributions)</u></p> <p><u>Clause 31 – to repeal section 124 (Authority to give participation certificates to participating employers)</u></p> <p><u>Clause 32 – to amend section 131 (contribution period in respect of self-employed person)</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Clause 33 – to amend section 143 (participating employer to notify trustee of certain information)</u></p> <p><u>Clause 34 – to amend section 154 (approved trustee to give transfer statement to scheme member)</u></p> <p><u>Clause 35 – to amend section 155 (confirmation of transfer to new scheme)</u></p> <p><u>Clause 36 – to amend section 157B (register of members of registered schemes who have established and maintained personal accounts within master trust schemes or industry schemes)</u></p> <p>Members raised no questions.</p>	
014524 – 014605	Chairman Administration	<p><u>Clause 37 – to amend section 158 (definition)</u></p> <p>The Administration highlighted that the definition of "registered Chinese medicine practitioner" was provided in proposed section 158(1). The meaning of departing from Hong Kong permanently was clarified in the proposed section 158(2).</p> <p>Members raised no questions.</p>	
014607 – 014644	Chairman Administration	<p><u>Clause 38 – to amend section 162 (additional classes of persons entitled to be paid accrued benefits)</u></p> <p>Members noted that the proposed section 162(1)(ba) introduced terminal illness as an additional ground of early withdrawal of accrued benefits by scheme members before they reached the age of 65.</p> <p>Members raised no questions.</p>	
014645 – 014826	Chairman Administration	<p><u>Clause 39 – to amend section 164 (claim for payment on ground of total incapacity)</u></p> <p>In response to Mr TANG Ka-piu's enquiry, the Administration advised that clause 39 amended section 164 by removing the requirement for scheme members to obtain confirmation letter from their former employers for certifying the termination of contract of employment. Instead,</p>	

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		scheme members could provide a declaration stating the termination of the contract of employment.	
014827 – 015050	Chairman Administration	<p><u>Clause 40 – to add section 164A (claim for payment on ground of terminal illness)</u></p> <p><u>Clause 41 – to amend section 165 (claim for payment of small balance)</u></p> <p><u>Clause 42 – to add section 165A (claim for payment by committee of estate appointed under Mental Health Ordinance)</u></p> <p><u>Clause 43 – to amend section 166 (approved trustee to ensure payment of accrued benefits within certain periods)</u></p> <p><u>Clause 44 – to amend section 168 (approved trustee to ensure claimant provided with final benefit statement)</u></p> <p><u>Clause 45 – to amend section 172 (duty of approved trustee to notify scheme member who has reached retirement age of his entitlement)</u></p> <p><u>Clause 46 – to amend section 175 (offences)</u></p> <p>Members raised no questions.</p>	
015051 – 015110	Chairman Administration	<p><u>Clause 47 – to amend section 206 (how notices etc. are to be served, etc. for purposes of the Ordinance)</u></p> <p>The Administration highlighted that the proposed section 206(2A) provided that a notice or other document could only be given by electronic means if scheme members had consented to such mode of communication.</p>	
015111 – 015150	Chairman Administration	<p><u>Clause 48 – to amend section 206A (how documents are to be served for purposes of section 153(1))</u></p> <p><u>Clause 49 – to amend Schedule 4 (financial penalties)</u></p> <p>Members raised no questions.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Members noted that the Administration had proposed a CSA to the proposed item 11B to ensure the consistency of the reference "Requirements on payment of accrued benefits by instalments" in both the Chinese and English texts.</p>	
015151 – 015228	Chairman Administration	<p>Part 4 – Amendments to Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485 sub. leg. B)</p> <p><u>Clause 50 – to amend section 26 (offences)</u></p> <p>The Administration highlighted that subsection (2) was repealed pursuant to the addition of section 47D under clause 17 which sought to extend the time limit for prosecution.</p> <p>Members raised no questions.</p>	
015229 – 015319	Chairman Administration	<p><u>Clause 51 - to amend schedule 2 (mandatory condition)</u></p> <p>Members noted that the proposed amendments allow certain ORSO scheme members to enjoy the same arrangements as MPF scheme members (i.e. inclusion of terminal illness as an additional ground of early withdrawal, clarification of the meaning of permanently ceasing employment or self-employment, trustee must not charge scheme members any fee or impose any penalty for the payment of accrued benefit other than necessary transaction costs and a committee of estate appointed under the Mental Health Ordinance may make claims on behalf of scheme members).</p> <p>Members raised no questions.</p> <p>Members noted that the Administration had proposed a CSA to set out an additional scenario in the definitions of "final average monthly relevant income" and "years of post-MPF service" in section 1(1) of Schedule 2 to the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485B).</p>	
015320 – 015346	Chairman Administration	<p>Part 5 – Amendments to Mandatory Provident Fund Schemes (Specification of Permitted Periods) Notice (Cap.485 sub.leg. F)</p>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Clause 52 – to amend section 1 (permitted period specified for purposes of section 7 of Ordinance)</u></p> <p><u>Clause 53 – to amend section 2 (permitted period for purposes of section 7C of Ordinance)</u></p> <p>Members raised no questions.</p>	
015347 – 015424	Chairman Administration	<p>Part 6 – Amendments to Occupational Retirement Schemes Ordinance (Cap. 426)</p> <p><u>Clause 54 – to amend section 77 (preservation of secrecy)</u></p> <p><u>Clause 55 – to add section 78A (Disclosure by administrator or relevant employer)</u></p> <p>Members raised no questions.</p> <p>The Administration advised that it had proposed a CSA to the proposed section 78A to specify the criteria on which MPFA could give consent to MPF trustees or ORSO administrators for disclosure of information.</p>	
015425 – 015507	Chairman Administration	<p>Part 7– Related and Consequential Amendments to Inland Revenue Ordinance (Cap.112)</p> <p><u>Clause 56 – to amend section 8 (charge of salaries tax)</u></p> <p><u>Clause 57 – to amend section 9 (definition of income from employment)</u></p> <p>Members raised no questions.</p>	
015508 – 015828	Chairman ALA10 Administration	<p>The Administration was requested to clarify whether the terms "incapacity" and "無行為能力" in the Inland Revenue Ordinance (Cap. 112) should be aligned with the terms "total incapacity" and "完全喪失行為能力" in the English and Chinese texts of Cap. 485 for consistency as the terms in Cap. 112 and Cap. 485 had the same definition.</p> <p><u>The Chairman</u> advised that the Bills Committee had completed clause-by-clause examination of the Chinese text of the Bill. He requested ALA 10 to help scrutinize the English text of the Bill based on</p>	The Administration to follow up.

Time marker	Speaker	Subject(s)	Action required
		the Chinese text and to clarify with the Administration issues relating to the legal and drafting aspects of the Bill.	
015829 – 015850	Chairman Administration	Meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
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