

立法會
Legislative Council

LC Paper No. CB(1)434/14-15
(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 sixth meeting on
Tuesday, 2 December 2014, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon CHAN Kin-por, BBS, JP (Chairman)
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Hon WONG Kwok-kin, SBS
Hon LEUNG Kwok-hung
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 LEE Cheuk-yan
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
- 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

Ms Fanny IP
Deputy Law Draftsman (Legislation)
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. Meeting with the Administration**
(LC Paper No. CB(1)305/14-15(01) -- List of follow-up actions
arising from the discussion
at the meeting on
17 November 2014

- LC Paper No. CB(1)305/14-15(02) -- The Administration's responses to follow-up actions arising from discussion at the meeting on 17 November 2014
- LC Paper No. CB(1)234/14-15(01) -- The Administration's paper on proposed draft Committee Stage Amendments marked on the relevant parts of the Bill

Relevant papers issued previously

- 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))

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

Follow-up actions required of the Administration

2. The Administration was requested to:
- (a) provide a written response to the Assistant Legal Adviser's letter (LC Paper No. CB(1)318/14-15(01)) in relation to the draft Committee Stage amendments ("CSAs") to be moved by the Administration (LC Paper No. CB(1)234/14-15(01));
 - (b) provide a full set of the final draft CSAs to be moved by the Administration; and
 - (c) provide the following information in respect of the phased withdrawal arrangement for special voluntary contribution under which scheme members may make four free withdrawals in a year:
 - (i) the number and the respective names of Mandatory Provident Fund ("MPF") schemes providing the said arrangement;

- (ii) the general withdrawal pattern of scheme members; and
- (iii) the administration costs for processing a request for withdrawal free-of-charge and subsequent requests for withdrawal.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)368/14-15(02) on 17 December 2014.)

Legislative timetable

3. The Chairman said that the Bills Committee had in principle completed scrutiny of the Bill. Subject to no further views from members and the Assistant Legal Adviser on the Administration's written response to issues raised at the meeting and the final draft CSAs to be moved by the Administration, the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 21 January 2015. The Chairman would report the deliberations of the Bills Committee to the House Committee on 9 January 2015. The deadline for giving notice of amendments to the Bill would be 12 January 2015.

(Post-meeting note: The Secretariat had not received any request from members for holding a meeting to discuss the Administration's written reply and the final draft CSAs to be moved by the Administration. The Assistant Legal Adviser of the Bills Committee had no comment on the Administration's written response and the final draft CSAs.)

II. Any other business

4. There being no other business, the meeting ended at 5:33 pm.

Council Business Division 1
Legislative Council Secretariat
14 January 2015

**Proceedings of the sixth meeting of
the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2014
on Tuesday, 2 December 2014, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000152	Chairman	Opening remarks	
000153 – 000644	Chairman Administration	<u>Briefing by the Administration on its responses to the follow-up actions arising from discussion at the meeting on 17 November 2014 (LC Paper No. CB(1)305/14-15(02))</u>	
000645 – 001240	Chairman Mr SIN Chung-kai Administration	<p><u>Phased withdrawal of accrued benefits</u></p> <p>In respect of the draft Committee Stage amendment ("CSA") to reduce the minimum number of free-of-charge withdrawals from 12 to four times a year, Mr SIN Chung-kai –</p> <p>(a) questioned whether the revised proposal was in scheme members' interests (such as the needs of scheme members in managing their accrued benefits upon retirement) given the lack of supporting data (such as scheme members' withdrawal pattern under the existing phased withdrawal arrangements for special voluntary contribution); and</p> <p>(b) enquired about the anticipated amount of fees that would be charged by trustees on the subsequent withdrawals (i.e. from the 5th withdrawal).</p> <p>The Administration responded that –</p> <p>(a) while trustees would be statutorily required to process scheme members' requests for withdrawals at least four times a year free-of-charge as proposed under the Bill, they would not be restricted from providing additional free withdrawals for scheme members;</p> <p>(b) the minimum number of free-of-charge withdrawals was reduced from 12 to four times a year in the light of the Bills Committee's suggestion (i.e. reducing the minimum number of free-of-charge</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>withdrawals or setting a minimum amount for each withdrawal to avoid driving up trustees' administration costs);</p> <p>(c) the revised proposal would strike a reasonable balance between providing scheme members with flexibility in withdrawal of accrued benefits and maintaining the efficiency and cost-effectiveness of the MPF System; and</p> <p>(d) it was difficult to estimate the fees that would be charged for withdrawals subsequent to the free withdrawals as the phased withdrawal arrangement had not yet been implemented. Nevertheless, trustees would be required to update the Offering Documents to stipulate the fees for withdrawals upon the implementation of the new arrangement. The Mandatory Provident Fund Schemes Authority ("MPFA") was responsible for approving the Offering Documents and it would ensure that such fees were reasonable.</p>	
001241 – 001543	Chairman Mr TANG Ka-piu Administration	<p>Mr TANG Ka-piu's views -</p> <p>(a) the Administration should keep in view the operation of the phased withdrawal arrangement so as to assess whether the provision of at least four free-of-charge withdrawals by trustees could satisfy the needs of scheme members. It should review the arrangement in the light of scheme members' feedback in the future to ascertain whether it was necessary to increase the minimum number of free-of-charge withdrawals or to set a minimum withdrawal amount; and</p> <p>(b) the Administration should also assess the cost impact of the phased withdrawal arrangement on trustees after implementation of the new arrangement. In this connection, the Administration should provide the following information in respect of the phased withdrawal arrangement for special voluntary contribution currently offered by some trustees:</p> <p>(i) the number and respective names of MPF schemes allowing scheme members to</p>	The Administration to take follow-up action as in paragraph 2(c) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>withdraw special voluntary contributions free-of-charge four times a year;</p> <p>(ii) the general withdrawal pattern of scheme members; and</p> <p>(iii) the administration costs for processing a request for withdrawal free-of-charge and subsequent requests for withdrawal.</p> <p>(c) had no objection to the Administration's proposed CSA to reduce the minimum number of free-of-charge withdrawals to four times a year but noted that with the accumulation of MPF accrued benefits over time, 12 free-of-charge withdrawals a year might facilitate the introduction of annuity plans by trustees in the future.</p> <p>The Administration advised that it would review the phased withdrawal arrangement as well as the associated cost and fee implications at an appropriate juncture.</p>	
001544 – 001907	Chairman Ms Starry LEE Administration	<p>Ms Starry LEE's views and concerns -</p> <p>(a) had no objection to setting the minimum number of free-of-charge withdrawals at four times a year as a start;</p> <p>(b) however, asked whether there would be substantial increase in the marginal cost of each additional withdrawal subsequent to the free-of-charge withdrawals given that some set up costs for implementing the phased withdrawal arrangement, such as staff cost, were fixed costs; and</p> <p>(c) the Administration should review the operation of the phased withdrawal arrangement and assess its cost impact on trustees and the receptiveness of scheme members towards the arrangement some time after implementation.</p> <p>The Chairman's views –</p> <p>(a) comparing to the existing arrangement that a scheme member could only withdraw his/her accrued benefits in a lump sum once in a life</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>time, the revised proposal (i.e. setting the minimum number of free-of-charge withdrawals at four times a year) would already provide scheme members with more flexibility on withdrawal of accrual benefits;</p> <p>(b) it would be more appropriate to consider increasing the minimum number of free-of-charge withdrawals in a year in the future having regard to scheme members' actual withdrawal patterns and the readiness of the MPF industry (i.e. development of trustees' operating system to cater for more withdrawals).</p> <p>The Administration responded that it would, taking into account scheme members' feedback, review the phased withdrawal arrangement after implementation.</p>	
001908 – 001921	Chairman Mr TANG Ka-piu Administration	<u>Mr TANG Ka-piu</u> reiterated his request for the Administration to provide information as detailed in paragraph 2(c) of the minutes.	
001922 – 002113	Chairman Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai was of the view that increasing the number of free-of-charge withdrawals would in fact lower the average cost of each withdrawal given that the cost for setting up autopay instructions to disburse payments of accrued benefits to scheme members was a fixed cost. As such, it might be operationally more cost effective to set the minimum number of free-of-charge withdrawals at 12 times rather than four times a year.</p> <p>The Administration explained that trustees would have to redeem a scheme member's investments in constituent funds ("CFs") in the first place before making payment of accrued benefits, and such selling would incur necessary transaction costs which was transaction-based. Autopay instructions would reduce the cost of disbursing payments of accrued benefits but not reduce the transaction cost of redemption from CFs.</p>	
002114 – 002206	Chairman Administration	<u>Briefing by the Administration on its proposed draft CSAs (LC Paper No. CB(1)234/14-15(01))</u>	

Time marker	Speaker	Subject(s)	Action required
002207 – 002246	Chairman Administration	<p><u>Clause 7 – amendment to proposed section 21BB(6)</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 1 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p><u>Clause 7 – amendment to the Chinese text of the proposed section 21BB(8)</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 2 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	
002247 – 003200	Chairman Assistant Legal Adviser Administration	<p><u>Clause 11 – amendment to proposed section 42AAB</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 3 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p> <p>The Administration was requested to provide a written response to the issues raised in paragraphs (a) to (d) in Assistant Legal Adviser's letter (LC Paper No. CB(1)318/14-15(01)).</p>	The Administration to take follow-up action as in paragraph 2(a) of the minutes
003201 – 003215	Chairman Administration	<p><u>Clause 22 – amendment to proposed section 31(4)</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 4 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	

Time marker	Speaker	Subject(s)	Action required
003216 – 003320	Chairman Mr WONG Ting-kwong Administration	<p>(With members' concurrence, Mr WONG Ting-kwong took the chair at this juncture during the temporary absence of the Chairman.)</p> <p><u>Clause 25 – amendment to proposed section 35B(2)</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 5 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	
003321 – 003447	Chairman (Mr WONG Ting-kwong) Administration	<p><u>New Clause 26A – to add section 42AA</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 6 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	
003448 – 003554	Chairman (Mr WONG Ting-kwong) Administration	<p><u>New Clause 27A – to add section 67A</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 7 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	
003555 – 003617	Chairman (Mr WONG Ting-kwong) Administration	<p><u>Clause 49 – amendment in the Chinese text of the proposed item 11B</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 8 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p>	

Time marker	Speaker	Subject(s)	Action required
003618 – 004119	Chairman ALA10 Administration	<p>(The Chairman took the chair at this juncture)</p> <p><u>Clause 51</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 9 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p> <p>The Administration was requested to provide a written response to the issue raised in paragraph (f) in the Assistant Legal Adviser's letter (LC Paper No. CB(1)318/14-15(01)) in relation to Schedule 2 to the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485B).</p>	<p>The Administration to take follow-up action as in paragraph 2(a) of the minutes</p>
004120 – 005650	Chairman ALA10 Administration	<p><u>Clause 55 – amendment to proposed section 78A</u></p> <p>The Administration advised that the relevant amendment was consequential to the proposed amendment made to clause 11.</p> <p>Members raised no questions.</p> <p>The Administration was requested to provide a written response to the issues raised in paragraphs (e)(i) to (iii) in the Assistant Legal Adviser's letter (LC Paper No. CB(1)318/14-15(01)).</p>	<p>The Administration to take follow-up action as in paragraph 2(a) of the minutes</p>
005651 – 010130	Chairman ALA10 Administration	<p><u>New Clause 58 – to add "Part 8 Transitional and Savings"</u></p> <p>The Administration briefed members on the reasons for proposing to move the amendment as detailed in footnote 11 of the Annex to the Administration's paper on the draft CSAs (LC Paper No. CB(1)234/14-15(01)).</p> <p>Members raised no questions.</p> <p>The Administration was requested to provide a written response to the issues raised in paragraphs (g) and (h) in the Assistant Legal Adviser's letter</p>	<p>The Administration to take</p>

Time marker	Speaker	Subject(s)	Action required
		(LC Paper No. CB(1)318/14-15(01)) in relation to the proposed transitional and saving provisions in clause 58.	follow-up action as in paragraph 2(a) of the minutes
010131 – 010434	Chairman Administration	The Bills Committee completed examining the CSAs proposed to be moved by the Administration to the Bill. Legislative timetable	

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Legislative Council Secretariat
14 January 2015