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19 September 2014

**Attn: Clerk to Bills Committee on the
Mandatory Provident Fund Schemes
(Amendment) Bill 2014**

Dear Sirs,

Re: Mandatory Provident Fund Schemes (Amendment) Bill 2014 ("Bill")

We refer to your letter to us dated 29 July 2014 in relation to the Bill and inviting submissions thereof. Having considered the Bill, we respond with the following three comments:

1. in relation to section 6(8) of the Bill which seeks to clarify the meaning of a scheme member having "permanently ceased employment or self-employment" for the purposes of section 15 of the Mandatory Provident Fund Schemes Ordinance ("MPFSO"), we suggest incorporating a carve-out with respect to 'retirees' taking up pro-bono (including charities, for example) engagements or appointments (which may technically constitute "employment"). Noting that some entities engaging in pro-bono work do employ full time salaried personnel to assist with their operations, appropriate qualifications to the carve-out (such as, for example, only those engagements or appointments which are on a non-salaried basis will qualify) should be considered. Having said that, such appointees should be entitled to be reimbursed or paid any expenses incurred, or reasonably likely to be incurred, in relation to their office;
2. in relation to section 7(6) of the Bill which seeks to provide a statutory basis to the Mandatory Provident Fund Schemes Authority ("MPFA") to refuse an application for the approval of a constituent fund if it is not satisfied that the fund is in the scheme

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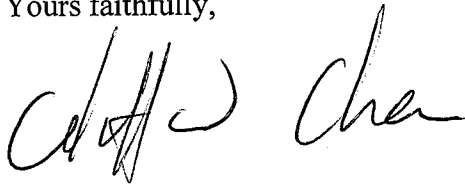
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members' interest, it will be important (for the industry participants' guidance) to elaborate on the factors which the MPFA will consider when deciding whether or not a new proposed constituent fund is "in the scheme members' interest". It would be more appropriate for this information to be set out in an MPFA guideline rather than under statute (in part to provide the MPFA with more flexibility); and

3. in relation to section 25 of the Bill which seeks to add, among other things, a new section 35B to the Mandatory Provident Fund Schemes (General) Regulation ("**General Regulation**"), we suggest that the reference in the new section 35(B)(2) to "the approved trustee of the scheme must act according to any written instructions [with respect to the time, frequency and amount of payment of a member's accrued benefits by instalments] ..." (emphasis added) be amended such that only forms prescribed by approved trustees in this regard (and not just any written instruction) may be used for the giving of those instructions.

If you have any questions in relation to the above, please do not hesitate to contact our Mr. Mark Shipman to discuss.

Yours faithfully,



Clifford Chance

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