

Consumer Council

**Submission to the Legislative Council Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2014**

(7 October 2014)

1. Consumer Council (CC) welcomes the opportunity to provide comments to the LegCo Bills Committee regarding the proposed Mandatory Provident Fund Schemes (Amendment) Bill 2014 (the Bill).

2. CC's comments in this submission are focused on proposals of enhancing scheme members' flexibility in withdrawal of Mandatory Provident Fund (MPF) benefits, reduction of MPF fees and disclosure arrangements in relation to confidential information.

Phased withdrawal of accrued benefits

3. CC supports the proposal of providing scheme members with an additional option of phased withdrawal of MPF accrued benefits upon retirement and early retirement, on top of the existing lump sum payment arrangement.

4. With regard to the proposed requirements on withdrawal frequency and the amount withdrawn, CC has previously submitted¹ that there should not be any restrictive conditions or requirements prescribed in the legislation in relation to withdrawal frequency or amount per withdrawal to enable scheme members to better suit their different circumstances.

5. CC welcomes that the Bill sets no restriction on the amount withdrawn in each instalment and imposes obligation on trustees to offer free withdrawals. By comparing with the original proposal of free withdrawal of 4 times a year and with at least \$5,000 in each instalment, CC considers the current proposal that trustees would be "statutorily required to process free of charge a scheme member's request to make withdrawal no more than 12 times a year", provides greater flexibility to scheme members.

6. While appreciating that the current proposal is to ensure no fees or financial penalties would be imposed on the scheme member concerned for payment of accrued benefits by instalments for the first 12 instalments of a year, CC finds it unclear just by reading the Bill whether the number of withdrawals would be set i.e. trustees would be required to provide at least 12 free withdrawals a year or trustees would be able to decide the number of withdrawals to offer to their scheme members.

¹ CC submission to the Mandatory Provident Fund Schemes Authority (MPFA) on "Review of Withdrawal of MPF Benefits" in 2012.

7. As regards that trustee would be required to make payment of accrued benefits to the claimant within 30 days after the date on which the claim is lodged, CC considers that payment of accrued benefits by instalments should be treated as a standing instruction given by the claimant and the waiting period should be reduced.

8. To address scheme members' concern about cost implications for transfer of benefits, the Bill provides assurance that trustees must not charge scheme members any fee or impose any penalty for the payment of accrued benefits by instalments for the first 12 instalments per year but at the same time it allows necessary transaction costs be imposed on the scheme members. CC considers that whether the transaction costs to be deducted from the member's account are necessary or not, and whether the costs incurred for transfer which cannot be imposed on the member would be wholly or partially passed on to all scheme members, should be attended to.

9. In the event additional withdrawal arrangements (i.e. beyond the 12 free withdrawals) are made, CC is of the view that trustees should be required to clearly spell out the fee terms for their different payment arrangements so that scheme members can appreciate the cost implication of each arrangement. For protection of scheme members' interests, CC expects that MPFA should play a governing role in ensuring subsequent instalment fees would not be exploitative to scheme members.

Terminal illness for early withdrawal of accrued benefits

10. CC welcomes the current proposal of introducing "terminal illness" as an additional ground for early withdrawal of MPF accrued benefits. CC, however, reiterates its stance that it does not support setting a specified time limit of remaining life expectancy of 12 months or less, for allowing early withdrawal.

11. CC is of the view that lenient treatment should be provided to scheme members with severe medical conditions for them to make the best of their remaining life and make necessary arrangement with the use of their MPF accrued benefits. CC therefore considers that certification by a registered medical practitioner or a registered Chinese medicine practitioner that a scheme member has terminal illness along with an estimate (if provided) of remaining life expectancy of the scheme member concerned should be adequate for application of early withdrawal of MPF accrued benefits.

12. For effective exercise of scheme members' rights in management of their MPF benefits, CC also recommends that the Government should review from time to time the scope of the grounds for early withdrawal.

Initiatives to reduce MPF fees

13. As in its previous submission, CC urges MPFA to closely monitor the range and charges of MPF products to be developed by the MPF industry so that the products would not be inappropriately designed or too costly.

14. CC fully supports empowering MPFA to refuse approval of new constituent fund of registered schemes if it is not satisfied that the fund is in the scheme members' interests (as an example given in the LegCo paper, a new fund with fees lower than those of similar existing MPF funds, is in scheme members' interests). CC considers it important that the principle of "in scheme members' interests" should be applied at the fund's approval and post-approval stages.

Disclosure arrangements in secrecy provisions

15. The Bill proposes to allow disclosure of personal and financial information of individual scheme members by trustees to foreign tax authorities, subject to specified conditions, for complying with reporting requirements to enhance tax transparency or combat tax evasion. CC understands the need for such amendment but stresses that both the mechanisms of disclosure and protection of confidential information should be clearly set out in the regulation.

Other comments

16. The proposals put forward in the Bill are positive steps towards better and more effective management of retirement matters. Nevertheless, to enable scheme members to make informed choices on withdrawal of MPF benefits, educational programs should be provided to raise scheme members' awareness of the choices available for them and to help them to understand the effect of different payment options, as well as the other legislative changes affecting the interests of scheme members.

Consumer Council
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