

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

**The Administration's Response to Follow-up Actions
Arising from Discussion at Meeting on 17 November 2014**

Purpose

This paper sets out the Administration's response to the comments raised by Members at the Bills Committee ("BC") meeting on 17 November 2014.

Phased Withdrawal of Accrued Benefits

2. Our proposal in the Bill is that trustees have to handle scheme members' requests for withdrawal of accrued benefits free-of-charge at least 12 times a year, and there is no statutory restriction on the minimum withdrawal amount. Noting that the potential increase in the administrative costs arising from such withdrawals would likely be shared by all scheme members, some Members suggested at the BC meeting that the minimum number of free-of-charge withdrawals should be reduced to no more than four times a year or a minimum withdrawal amount should be set.

3. As explained at the BC meetings, the Administration's original proposal, devised upon the 2011-12 public consultation, was to statutorily require trustees to handle at least four requests for withdrawal (with a minimum amount of \$5,000 for each withdrawal) a year free-of-charge. Having considered the comments raised by Members of the Panel on Financial Affairs at the meeting of 5 May 2014, we revised the proposal by increasing the minimum number of free-of-charge withdrawals, with a view to providing scheme members with greater flexibility in withdrawal. We have also removed the minimum amount of \$5,000 for each withdrawal in the light of comments from other stakeholders such as the Consumer Council.

4. As explained on a number of occasions, it is important to maintain a simple and efficient administrative withdrawal framework in order to keep the associated costs as low as practicable. As with all service elements, having more withdrawals or imposing more withdrawal conditions will result in higher administrative costs. Hence, any proposed phased withdrawal arrangement should strike a reasonable balance between providing scheme members with greater flexibility in withdrawal and maintaining the efficiency and cost-effectiveness of the entire system.

5. Having due regard to the deliberation in BC, the industry's feedback, the deputations' suggestions and the aforementioned policy considerations, we have no objection to revising our proposal to a minimum of four free-of-charge withdrawals a year. Compared to setting a minimum withdrawal amount, this proposal will reduce trustees' operational requirements (e.g. manpower requirement) arising from handling such requests more directly, thereby lowering the potential costs for the system and scheme members. The Administration will move a Committee Stage Amendment to the new section 35(B)(3) of the Mandatory Provident Fund Schemes (General) Regulation ("Regulation") (i.e. clause 25 of the Bill) to reflect the latest proposal. The draft amendment is set out at **Annex** for reference.

6. A Member asked whether trustees would be able to impose other administrative conditions, for instance, setting a minimum withdrawal amount as per their agreements with scheme members, despite the proposed statutory requirement in the new section 35B of the Regulation. The proposed amended section 35B(3) does not prohibit trustees from setting out in the governing rules of the respective scheme a minimum withdrawal amount. However, any amendment to the scheme rules will require approval from the Mandatory Provident Fund Schemes Authority ("MPFA"), which will ensure that the terms and conditions are in scheme members' interests when processing such applications.

Early Withdrawal of Accrued Benefits on "Terminal Illness" Ground

7. Some Members asked the Administration to re-consider the need for a registered medical practitioner or a registered Chinese medicine practitioner to certify the remaining life expectancy (i.e. 12 months or less) of a scheme member for early withdrawal of accrued benefits on the ground of "terminal illness". They suggested that a scheme member may request for withdrawal if a medical practitioner has certified that he or she suffers from "terminal illness".

8. We have to reiterate the importance of having an easy-to-understand and objective definition of "terminal illness" so that the claim procedure will be straightforward and operationally efficient. Having a time condition (i.e. 12 months or less) will provide medical practitioners with clearer guidance on whether to provide certification to scheme members and help prevent abuse of early withdrawal of accrued benefits on such ground. In fact, we are not aware of any overseas jurisdictions that have not set any time condition but only rely on medical practitioners' diagnosis of a "terminal illness" at any point in time for similar withdrawal purposes.

9. The proposed 12-month remaining life expectancy is the outcome of the 2011-12 public consultation and subsequent discussion with the medical professional bodies. We have also drawn reference to the 12-month life expectancy yardstick adopted for similar purposes in the Australian Superannuation System. Further to the discussion at BC, MPFA consulted the medical professional bodies on the issue again. Some medical practitioners from the public sector advised that it would not be clinically viable to assess a patient's remaining expectancy beyond 12 months. While being sympathetic to some scheme members' circumstances, we have to take into account the practical ability of medical practitioners in providing such certification. On balance, we consider it necessary to retain the 12-month remaining life expectancy condition in the definition of "terminal illness".

10. Separately, a Member asked whether withdrawing accrued benefits on the ground of "terminal illness" would affect a scheme member's eligibility for receiving financial assistance from the Government. Similar to land, properties, cash, bank savings, cash value of insurance policy, investments in stocks and shares, accrued benefits withdrawn will normally be regarded as "disposable capital", "savings"/ "assets" and "savings" during the assessment of eligibility for Samaritan Fund or Community Care Fund drug subsidies, public rental housing and Comprehensive Social Security Assistance Scheme respectively.

Adding "Critical Illness" as a Ground for Early Withdrawal of Accrued Benefits

11. Regarding some Members' suggestion to include "critical illness" as an additional ground for early withdrawal of accrued benefits, we have to emphasise that the MPF System was set up to assist the working population to accumulate retirement savings through a modest level of contribution. Any ground for early withdrawal should therefore relate to circumstances where the need to preserve accrued benefits for retirement is no longer important or relevant. At present, if a scheme member can no longer perform the work prior to illness, he or she can request for early withdrawal on the ground of "total incapacity". And if a scheme member suffers from any illness that will reduce his or her life expectancy to 12 months or less, he or she will be able to do so on the ground of "terminal illness" when the proposed amendments in this Bill come into effect.

12. If early withdrawal could be made on other grounds for meeting priority needs, this will lead to ongoing debate about the relative importance of retirement savings vis-à-vis other financial needs. We should also note that various social and welfare programmes have been specifically developed to deal with a wide range of needs. The public healthcare system provides medical

treatment to the community at a reasonably low cost and there are financial assistance programmes to assist patients in procuring medical treatments and drugs.

13. In fact, there is no universal definition or standard list of “critical illnesses”. The coverage of insurance policies differs and there is no available statistics on the total amount claimed. Unlike “terminal illness”, “critical illness” is not necessarily fatal and critically ill scheme members who recover after treatment will still require retirement protection.

14. In view of the above, we do not consider it appropriate to, in addition to the existing ground of “total incapacity” and the proposed ground of “terminal illness”, add “critical illness” as a ground for early withdrawal of accrued benefits.

**Financial Services and the Treasury Bureau
Mandatory Provident Fund Schemes Authority
November 2014**

Mandatory Provident Fund Schemes (Amendment) Bill 2014

Draft Committee Stage Amendments

Clause 25

In the proposed section 35B(3):

- “(3) No fees or financial penalties (other than the amount described in subsection (4)) may be charged to or imposed on the member, or deducted from the member’s account, for the payment of the member’s accrued benefits by instalments in any year for the first ~~12~~4 instalments of that year.”