

立法會
Legislative Council

LC Paper No. CB(1)1164/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/15

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2015**

**Minutes of the second meeting
on Monday, 11 January 2016, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
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 Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan, JP
Hon IP Kwok-him, GBS, JP
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon CHAN Han-pan, JP

**Public officers
attending**

: Agenda Item I

Miss Wendy CHUNG
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services) 3

Mr Allen LAI
Senior Government Counsel
Department of Justice

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

Ms Stella YIU
Head (Investment Regulation)
Mandatory Provident Fund Schemes Authority

**Attendance by
invitation**

: Agenda Item I

Hong Kong Professionals and Senior Executives
Association

Mr Paul PONG
Co-convenor of Sub-committee of Financial
Services

The Hong Kong Federation of Insurers

Mr Wim HEKSTRA
Chairman of Retirement Schemes Working Group
Life Insurance Council

The Hong Kong Federation of Trade Unions Rights
and Benefits Committee

Mr CHAN Tang-yuen
Deputy Director

Liberal Party

Mr Joseph CHAN
Central and Western District Councillor

Hong Kong Investment Funds Association

Mr Arthur BACCI
Vice Chairman

The Hong Kong Society of Financial Analysts

Mr JIM Wai-kee, Jimmy
Advocacy Committee Co-Chair

The Actuarial Society of Hong Kong

Mr Billy WONG
Chairperson of Pension & Employee Benefits

Hong Kong Trustees' Association

Ms LAU Ka-shi
Vice Chairman &
Pensions & Funds Subcommittee Chairman

Employers' Federation of Hong Kong

Mr Duncan ABATE
Chairman of Mandatory Provident Fund Committee

Civic Party

Mr CHENG Tat-hung
Exco Member

The Hong Kong Retirement Schemes Association

Mr Stephen FUNG
Executive Committee Member

The Federation of Hong Kong & Kowloon Labour Unions

Mr Adrian LAW
Senior Secretary

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Miss Rita YUNG
Senior Council Secretary (1)8

Miss Judy YEE
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Action

I. Meeting with deputations and the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)396/15-16(01) -- List of follow-up actions arising from the discussion at the meeting on 15 December 2015

LC Paper No. CB(1)350/15-16(01) -- Hon TANG Ka-piu's letter dated 21 December 2015

LC Paper No. CB(1)396/15-16(02) -- Administration's responses to issues raised at the meeting on 15 December 2015 and in the letter from Hon TANG Ka-piu dated 21 December 2015)

Clause-by-clause examination of the Bill

- | | |
|-----------------------------------|--|
| (LC Paper No. CB(3)135/15-16 | -- The Bill |
| LC Paper No. CB(1)287/15-16(01) | -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only) |
| File Ref : MPF/2/1/39C(2015) Pt.2 | -- Legislative Council Brief issued by the Financial Services and the Treasury Bureau |
| LC Paper No. LS12/15-16 | -- Legal Service Division Report |
| LC Paper No. CB(1)396/15-16(03) | -- Assistant Legal Adviser's letter dated 23 December 2015 to the Administration |
| LC Paper No. CB(1)396/15-16(04) | -- Administration's responses to enquiries raised by the Assistant Legal Adviser in the letter dated 23 December 2015) |

Invitation of views from deputations

The Bills Committee received views from 12 deputations that had attended the meeting. The Chairman reminded the representatives of the deputations that when addressing the Bills Committee, they would not be covered by the protection and immunity of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and their written submissions were also not covered by the said Ordinance. Members noted the written submissions provided by the following five deputations and a member of the public which did not attend the meeting –

- (a) The Chinese General Chamber of Commerce (LC Paper No. CB(1)396/15-16(06));
- (b) The Chinese Manufacturers' Association of Hong Kong (LC Paper No. CB(1)396/15-16(07));

- (c) Morningstar Investment Management Asia Limited (LC Paper No. CB(1)396/15-16(08));
- (d) A member of the public (LC Paper No. CB(1)396/15-16(09));
- (e) The Hong Kong Association of Banks (LC Paper No. CB(1)396/15-16(10)); and
- (f) MSCI Hong Kong Limited (LC Paper No. CB(1)410/15-16(03)).

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

Follow-up action to be taken by the Administration

3. The Administration was requested to provide the following information:

- (a) written response to the deputations' written submissions received and views expressed at the meeting;
- (b) further elaboration on the rationale for –
 - (i) adopting the "opt-out" approach in respect of the Default Investment Strategy ("DIS") for the accrued benefits of members to whom the proposed Division 3 of Part 4AA would apply; and
 - (ii) the use of two constituent funds ("CFs") (i.e. the Core Accumulation Fund and Age 65 Plus Fund) and the de-risking investment principle under the DIS;
- (c) the fund expense ratio (after taking into account the discount on fees and charges offered to scheme members) of the existing Mandatory Provident Fund CFs which were classified as mixed assets funds;
- (d) regarding the proposed section 34DC(3), an itemized list of the fees and expenses other than the management fees permitted to be charged to the Core Accumulation Fund and Age 65 Plus Fund of the DIS, and whether such fees and expenses were recurrent or one-off in nature;

- (e) elaboration on the interpretation of the fees and expenses permitted to be charged under the proposed section 34DC(3)(b), including the approximate amount of such fees and expenses currently charged by the trustees to the existing mixed assets funds, and to address members' concern on the possibility of the trustees circumventing the fee control by alternating fee charging practices;
- (f) elaboration on the operation of the proposed transitional provisions governing the transfers of the accrued benefits in pre-existing accounts of scheme members to whom the proposed Division 3 of Part 4AA would apply, to and invested in the DIS after commencement of the Bill as enacted;
- (g) the estimated number of existing default scheme members whose accrued benefits would not be transferred to and invested in the DIS under the proposed section 34DB(2) (i.e. the member had reached 60 years of age before the commencement of the Bill as enacted), and the estimated amount of accrued benefits involved;
- (h) elaboration on the mechanism for reviewing and amending Schedule 10 (in respect of investment principles) and Schedule 11 (the percentage for calculation of the cap on the payment for services relating to the DIS) to the Bill;
- (i) elaboration on the interpretation of "underlying investment fund" and "underlying investment fund fee" as set out in the proposed section 34DC(5); and
- (j) whether the Administration would consider introducing a performance-based mechanism for charging of management fees by the trustees (e.g. suspension of fees in case of negative investment returns, or when such returns were not keeping up with inflation) of the Core Accumulation Fund and Age 65 Plus Fund of the DIS.

(Post-meeting note: The written response provided by the Administration was issued to members vide LC Paper No. CB(1)480/15-16(02) on 22 January 2016.)

II. Any other business

Date of next meeting

4. The Chairman reminded members that the next meeting would be held on Tuesday, 26 January 2016 at 10:45 am.

(Post-meeting note: On the instruction of the Chairman, the meeting time for the third meeting scheduled for 26 January 2016 had been changed to 9:30 am to 12:30 pm. Members were informed vide LC Paper No. CB(1)441/15-16 issued on 15 January 2016.)

5. There being no other business, the meeting ended at 12:28 pm.

Council Business Division 1
Legislative Council Secretariat
17 August 2016

**Proceedings of the second meeting of
the Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2015
on Monday, 11 January 2016, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000321 – 000845	Chairman	Opening remarks	
000846 – 001301	Mr Paul PONG, Hong Kong Professionals and Senior Executives Association ("HKPSEA")	Presentation of views as set out in submission (LC Paper No. CB(1)410/15-16(01))	
001302 – 001610	Mr Wim HEKSTRA, The Hong Kong Federation of Insurers	Presentation of views as set out in submission (LC Paper No. CB(1)410/15-16(02))	
001611 – 002003	Mr CHAN Tang-yuen, The Hong Kong Federation of Trade Unions Rights & Benefits Committee	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> (a) the Administration should introduce a central Default Investment Strategy ("DIS") operated by a single public trustee, so as to achieve economies of scale and larger scope of fee reduction; (b) the proposed fee cap of 0.75% should include all fees and charges; (c) the Administration should review the level of the fee cap annually; (d) a performance-based mechanism for charging of management fees by the trustees should be introduced; and (e) the arrangement of offsetting severance payments and long service payments against Mandatory Provident Fund ("MPF") accrued benefits should be abolished. 	
002004 – 002301	Mr Joseph CHAN, Liberal Party	<p>Presentation of views as highlighted below –</p> <ul style="list-style-type: none"> (a) the Administration should promote market competition, thereby increasing the driving force for fee reduction for the existing 	

Time marker	Speaker	Subject(s)	Action required
		<p>constituent funds ("CFs") in the MPF System; and</p> <p>(b) the arrangement of offsetting severance payments and long service payments against MPF accrued benefits should not be abolished to protect the business environment of the local small and medium enterprises ("SMEs").</p>	
002302 – 002425	Mr Arthur BACCI, Hong Kong Investment Funds Association	Presentation of views as set out in submission (LC Paper No. CB(1)447/15-16(01))	
002426 – 002712	Mr JIM Wai-kee, Jimmy, The Hong Kong Society of Financial Analysts	Presentation of views as set out in submission (LC Paper No. CB(1)396/15-16(05))	
002713 – 002845	Mr Billy WONG, The Actuarial Society of Hong Kong	Presentation of views as set out in submission (LC Paper No. CB(1)477/15-16(01))	
002846 – 003339	Ms LAU Ka-shi, Hong Kong Trustees' Association	Presentation of views as set out in submission (LC Paper No. CB(1)477/15-16(02))	
003340 – 003506	Mr Duncan ABATE, Employers' Federation of Hong Kong	<p>Presentation of views as highlighted below –</p> <p>(a) supported the introduction of a regulated and highly standardized Default Investment Strategy ("DIS") to enhance the MPF System; and</p> <p>(b) the Administration should take heed of the industry's views and concerns in relation to the technical issues of the implementation of the DIS.</p>	
003507 – 003915	Mr CHENG Tat-hung, Civic Party	Presentation of views as set out in submission (LC Paper No. CB(1)451/15-16(01))	
003916 – 004048	Mr Stephen FUNG, The Hong Kong Retirement Schemes Association	Presentation of views as set out in submission (LC Paper No. CB(1)477/15-16(03))	

Time marker	Speaker	Subject(s)	Action required
004049 – 004255	Mr Adrian LAW, The Federation of Hong Kong & Kowloon Labour Unions	Presentation of views as set out in submission (LC Paper No. CB(1)414/15-16(01))	
004256 – 004824	Chairman Administration Chief Regulation & Policy Officer and Executive Director, Mandatory Provident Fund Schemes Authority ("MPFA")	<p>The Administration's and MPFA's initial responses to deputations' views that –</p> <ul style="list-style-type: none"> (a) the policy intent behind the proposed DIS was to protect the interests of disengaged scheme members who had not made their own investment decisions in relation to all of their accrued benefits. It was highly unlikely that disengaged scheme members would digest the information about the DIS and make an informed and conscious decision to choose the DIS or otherwise. As a consequence, adopting the opt-in mode would defeat the objective of helping disengaged scheme members protect their interest; (b) the proposed transitional arrangements were developed after taking into account the views received during the public consultation and extensive discussion with the industry; (c) MPFA would mount a large-scale publicity campaign a few months prior to the launch of the DIS to enhance public understanding of the DIS including the impact of the transitional arrangements; and (d) to allow sufficient time for the trustees to apply for approval of their CFs as DIS CFs and to prepare for the implementation of the DIS, the Bill would come into operation on the expiry of about six months beginning on the day on which it was published in the Gazette. Early passage of the Bill by the Legislative Council could allow scheme members to benefit from the fee-controlled DIS as soon as possible. 	
004825 – 005500	Chairman Mr TANG Ka-piu Administration MPFA	<p>Mr TANG Ka-piu's views that he –</p> <ul style="list-style-type: none"> (a) supported the opt-out approach adopted for the transitional arrangements under the proposed DIS; 	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) concurred with the views of The Chinese General Chamber of Commerce and The Chinese Manufacturers' Association of Hong Kong that the Administration should assign the Hong Kong Monetary Authority, or other non-profit-making organizations to manage the DIS in the long run;</p> <p>(c) noted HKPSEA's suggestion on using a passive, index-based approach for the investment of the funds of the DIS CFs;</p> <p>(d) expressed concern about the possibility of the trustees circumventing the fee cap of 0.75% by alternating fee charging practices; and</p> <p>(e) considered the Administration should introduce a performance-based mechanism for charging of management fees by the trustees (e.g. suspension of fees in case of negative investment returns, or when such returns were not keeping up with inflation) of the Core Accumulation Fund and Age 65 Plus Fund of the DIS.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the opt-out approach would not be applicable to those scheme members who had already given specific investment instructions (i.e. around 90% of existing accounts). The accrued benefits of such scheme members would only be invested into the DIS if they took an active step to choose to do so. If those "active" scheme members did not choose to invest in the DIS, their accrued benefits invested in existing choices of CFs would not be affected by the proposed transitional arrangements; and</p> <p>(b) the remainder, which was around 10% of existing accounts, related to disengaged scheme members who had not given investment instructions for all of their accrued benefits, were the target group of the proposed DIS. The opt-out approach would serve the best interests of disengaged scheme members by mandating the investment of their accrued benefits in the DIS consistent with the</p>	

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		objective of long-term retirement savings.	
005501 – 005758	Chairman Mr CHAN Kin-por	Noting the Administration's rationale for adopting the opt-out approach and the industry's concern about possible disputes arising from the automatic transfer of accrued benefits to the DIS without express investment instructions from scheme members, Mr CHAN Kin-por's suggestion that the Administration should continue to engage the industry relating to the technical issues of the implementation of the DIS.	
005759 – 010430	Chairman Mr POON Siu-ping Administration MPFA	<p>Mr POON Siu-ping's enquiries on –</p> <p>(a) whether the Administration would consider reviewing the level of the fee cap of 0.75% annually; and</p> <p>(b) the transitional arrangements of the accounts of existing scheme members whose contact details were unknown.</p> <p>The Chairman's request for the Administration to elaborate on the components of the management fees which were subject to the fee cap, as well as the fees and expenses other than the management fees.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the control of payment for services to the DIS was set out under the proposed section 34DC. Payments for services (i.e. fees) to the approved trustee, a specified service provider, a sponsor or promoter should not in total exceed 0.75% of the net asset value ("NAV") of a DIS CF per annum. The Bill mandated a daily rate equivalent to an annualized rate of 0.75% of the NAV of the DIS CFs. Also, the Bill had already provided the mechanism for the Secretary for Financial Services and the Treasury to amend the proposed fee cap in future;</p> <p>(b) MPFA would issue administrative guidelines setting out the operational details for calculating the fees for the purpose of complying with the fee cap. Specific procedural and operational requirements</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>would also be set out in the guidelines to allow swift regulatory responses to curtail possible circumvention of the fee cap;</p> <p>(c) the fees and expenses other than management fees were primarily be out-of-pocket expenses relating to discharge of trustees' duties, were also permitted to be charged to the DIS CFs. These included auditor's fees; legal and other professional charges; preparation cost and publication expenses; printing and postage, fund price publication expenses, bank charges; dealing costs, transaction cost incurred in buying and selling underlying investments, governmental fees and charges, etc.; and</p> <p>(d) there might be relatively more unknown members in the Industry Schemes due to the high mobility of the construction industry and the catering industry, and the fact that most of the employees in these two sectors were casual employees whose employers usually registered members using the simplified mode. If the trustee, after following specific guidelines to be issued by MPFA, failed to locate an existing default member (including Industry Schemes members) in the manner and within the time limit specified in the guidelines to be issued by the MPFA, the trustee should transfer the accrued benefits of such member to and invested in the DIS.</p>	
010431 – 010857	Chairman Mr Kenneth LEUNG Administration MPFA	<p>Mr Kenneth LEUNG's view that when compared with similar standardized default investment arrangements adopted by other jurisdictions in their retirement schemes, there was room for lowering the fee cap level of 0.75%.</p> <p>Mr LEUNG's enquiries on –</p> <p>(a) the rationale for the setting of the fee cap of 0.75%; and</p> <p>(b) the impact of the transitional arrangements on the accounts of existing scheme members who had already given specific investment instructions.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's and MPFA's responses that –</p> <p>(a) when setting the fee cap level for the DIS, the Administration had made reference to the "Report on a study of administrative costs in the Hong Kong Mandatory Provident Fund system" commissioned by MPFA in 2012. At that time, data collected from approved trustees and administrators indicated that when the weighted average fund expense ratio ("FER") was 1.74%, the administrative cost was a weighted average of 0.75% of the assets under management ("AUM"), the investment management fee was 0.59% of AUM, and the remaining 0.4% referred to other costs such as marketing charges; and</p> <p>(b) the opt-out approach would not be applicable to those scheme members who had already given specific investment instructions. The accrued benefits of such scheme members would only be invested into the DIS if they chose to do so. Existing choices of investment funds of these scheme members would not be affected by the proposed transitional arrangements.</p>	
010858 – 011557	Chairman Mr CHUNG Kwok-pan Administration MPFA	<p>Mr CHUNG Kwok-pan's views that –</p> <p>(a) the Administration should consider introducing an investment performance-based mechanism for charging of management fees by the trustees of the DIS CFs;</p> <p>(b) the Administration should consider setting up a central database for standardizing and streamlining the administration of different MPF schemes, thereby reducing the administrative costs of the MPF schemes; and</p> <p>(c) he would consider proposing a Committee Stage amendment to the Bill to include all fees and charges of the DIS CFs under the proposed fee cap of 0.75%.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the fee cap of 0.75% referred to the total management fees (not including out-of-pocket</p>	

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		<p>expenses) charged to the DIS CFs. Investment performance-based fees were sometimes considered relating to investment management fees but it was difficult to adopt such a fee model in the DIS context. First of all, a performance-related fee introduced a conditionality which would make the calculation and operation of a daily fee control much more difficult. Secondly, index-based investment might well be a common feature of DIS CFs. Under such an approach, which was encouraged in terms of cost and consistency, investment outcomes were almost exclusively driven by investment markets, rather than the efforts of individual investment managers. It would appear quite arbitrary to attach the manager's fees to the outcome of a particular index over which it had no control;</p> <p>(b) nevertheless, the trustees were free to include any performance-related component in setting their management fee to be charged to their DIS CFs, subject to the total management fee cap of 0.75%;</p> <p>(c) MPFA had commissioned a consultancy study on the feasibility of the standardization, streamlining and automation of MPF scheme administration. The Administration and MPFA would, based on the study results, consider the requirements for setting up a centralized electronic platform, i.e. eMPF. It was expected that this platform would further streamline operational processes handled by approved trustees and employers, providing greater scope for fee reduction; and</p> <p>(d) it would be difficult to cap other fees and expenses that could apply to the DIS CFs since they were primarily out-of-pocket expenses relating to the discharge of trustees' duties. Such costs, which were fact specific, were usually not predictable, not known in advance and outside the trustees' control. They were also charged at a fixed amount. It was also difficult to include these fees and expenses in the calculation and operation of a daily fee control mechanism based on the NAV of the CFs.</p>	

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011558 – 012202	Chairman Mr Alan LEONG MPFA	<p>Mr Alan LEONG referred to the views of The Hong Kong Federation of Insurers that under the existing default investment arrangements offered by various trustees, the accrued benefits of the majority of default scheme members were invested in conservative funds or guaranteed funds with low risks. The opt-out approach would expose these default scheme members to higher market risks without their explicit consent. Mr LEONG's request for further elaboration on the rationale for –</p> <p>(a) adopting the opt-out approach in respect of the DIS for the accrued benefits of existing default scheme members; and</p> <p>(b) the use of two CFs (i.e. the Core Accumulation Fund and Age 65 Plus Fund) and the de-risking investment principle under the DIS.</p>	<p>The Administration to follow up as per paragraph 3(b) of the minutes.</p>
012203 – 012725	Chairman Mr LEUNG Kwok-hung	<p>Mr LEUNG Kwok-hung's criticism on the high fees of the existing MPF schemes, and the arrangement of offsetting severance payments and long service payments against MPF accrued benefits. His views that –</p> <p>(a) the entire MPF System should be abolished; or</p> <p>(b) comprehensive and fundamental reform should be introduced to the MPF System, such as introducing a central DIS and providing guaranteed returns to scheme members by the Administration.</p>	
012726 – 013134	Chairman Mr CHAN Kin-por Mr Paul PONG, HKPSEA	<p>Mr CHAN Kin-por sought HKPSEA's views on the proposed fee cap of 0.75%.</p> <p>HKPSEA's views that –</p> <p>(a) the FERs of the MPF equity funds were between 1% to 2%, and those of the MPF bond funds were about 0.5% to 1%;</p> <p>(b) since its launch in December 2000, the MPF System had accumulated a sizeable amount of assets over the past 15 years. There was room for reducing the fees of the MPF CFs; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) it was in favour of a passive, index-based approach to investment for the DIS CFs such as investing in the Tracker Fund due to its low fee and good performance.</p> <p>Mr CHAN Kin-por's request for the Administration to provide information on the FER (after taking into account the discount on fees and charges offered to scheme members) of the existing MPF CFs which were classified as mixed assets funds.</p>	<p>The Administration to follow up as per paragraph 3(c) of the minutes.</p>
<p>013135 – 013807</p>	<p>Chairman Mr TANG Ka-piu Administration MPFA</p>	<p>Mr TANG Ka-piu's request for an itemized list of the fees and expenses other than the management fees permitted to be charged to the Core Accumulation Fund and Age 65 Plus Fund of the DIS, and whether such fees and expenses were recurrent or one-off in nature.</p> <p>Mr TANG Ka-piu's enquiries on –</p> <p>(a) referring to MPFA's information that the component of fees and expenses other than management fees ("other fees and expenses") in FER amounted to 0.2% of NAV as an average across all existing MPF CFs, whether there was room for lowering the percentage in future; and</p> <p>(b) the amount of other fees and expenses in terms of percentage of NAV of the existing MPF mixed assets funds.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the other fees and expenses were primarily out-of-pocket expenses relating to the discharge of trustees' duties. These other fees and expenses varied by fund type (being higher, for example, for equity funds). Generally speaking, funds with smaller asset sizes on average had higher percentages of other fees and expenses (in terms of a percentage of NAV) than those with bigger asset sizes; and</p> <p>(b) the mixed assets funds with an asset size of \$100 million and below were estimated to have an average "other fees and expenses" of</p>	<p>The Administration to follow up as per paragraph 3(d) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>0.32% of NAV, while those with an asset size over \$10,000 million had an average "other fees and expenses" of 0.14% of NAV.</p>	
<p>013808 – 014049</p>	<p>Chairman Mr CHUNG Kwok-pan Administration</p>	<p>Mr CHUNG Kwok-pan's reiteration that –</p> <p>(a) the proposed fee cap of 0.75% should include all fees and charges (including the out-of-pocket expenses); and</p> <p>(b) the Administration should consider setting up a central database for standardizing and streamlining the administration of different MPF schemes, so as to reduce the administrative costs of the MPF schemes.</p> <p>The Administration's response that it would, based on the study results of the consultancy study on the feasibility of the standardization, streamlining and automation of MPF scheme administration, consider the requirements for setting up a centralized electronic platform eMPF. It was expected that this platform would simplify operational processes handled by both approved trustees and employers, providing greater scope for fee reduction. The Administration would update the Panel on Financial Affairs on the results of the study in due course.</p>	
<p>014050 – 014342</p>	<p>Chairman Mr Kenneth LEUNG Administration MPFA</p>	<p>Mr Kenneth LEUNG's views that instead of providing in each MPF scheme a DIS, the Administration should consider mandating each trustee to provide a DIS for use of all the schemes of the trustee, so as to achieve better economies of scale and larger scope of fee reduction.</p> <p>The Administration's and MPFA's responses that the industry could design and use common pooled solutions at underlying investment level for the DIS of different schemes of each trustee to strive to achieve economies of scale.</p>	
<p>014343 – 014620</p>	<p>Chairman Mr Kenneth LEUNG Mr Joseph CHAN, Liberal Party</p>	<p>Mr Kenneth LEUNG's request for elaboration on the Liberal Party's views on the impact on SMEs if the arrangement of offsetting severance payments and long service payments against MPF accrued benefits was abolished.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Liberal Party's views that –</p> <p>(a) according to media reports, a survey conducted by academics had revealed that over 20% of the some 300 000 local SMEs might incur operating losses as a result of abolishing the arrangement of offsetting severance payments and long service payments against MPF accrued benefits; and</p> <p>(b) it was expected that SMEs might consider downsizing (including laying off staff), thus affecting Hong Kong's productivity and competitiveness.</p>	
014621 – 015206	Chairman Mr Kenneth LEUNG Administration	<p>Mr Kenneth LEUNG's views that according to overseas experience, operating the retirement schemes by public trustees could greatly reduce the management fees and administrative costs. His enquiries on –</p> <p>(a) whether the Administration would consider reforming the MPF System by introducing a public trustee to operate the System in the long run; and</p> <p>(b) whether the Administration would implement full portability of MPF accrued benefits in future.</p> <p>The Administration's responses that –</p> <p>(a) the proposed DIS was a direct and expedient solution to address the problems of high fees and difficulty in making investments choices in the privately-managed MPF System by regulating the default investment arrangements, and to protect the interests of the default scheme members by providing them the investment solution that was consistent with the objective of long-term retirement savings. The Administration did not have any plans to change the privately-managed model of the MPF System (including the proposed DIS) which worked with other retirement protection pillars in assisting the working population to save for their retirement; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) The Administration and MPFA were studying the feasibility of setting up a centralized electronic platform eMPF. This platform could achieve many policy objectives, including simplification of MPF operational process, further fee reduction and facilitating scheme members in making investment choices.</p>	
015207 – 020008	Chairman Mr TANG Ka-piu Administration MPFA	<p>Mr TANG Ka-piu's enquiry on the operation of the proposed transitional provisions governing the transfers of the accrued benefits of an existing member that had been invested in a guaranteed fund according to a default investment arrangement to and invested in the DIS.</p> <p>The Administration's and MPFA's response that –</p> <p>(a) the proposed section 34DJ(2) provided that the accrued benefits of a default scheme member currently invested in guaranteed funds would not be invested into the DIS if, on the last day of the 42-day reply period, the market value of those benefits was less than the value guaranteed by the fund to be paid to the member on that day; and</p> <p>(b) at present, there were four schemes which used guaranteed funds with unconditional guarantees as default investment arrangement. The total NAV involved was about \$17,000 million. For default investment arrangements which used guaranteed funds with unconditional guarantees, the guaranteed value equaled the market value, and therefore the accrued benefits of an existing member that had been invested in a guaranteed fund according to a default investment arrangement of these four schemes would be transferred to the opt-out transitional process of the DIS.</p>	
020009 – 020038	Chairman	Conclusion of meeting with deputations.	
020039 – 021020	Chairman Administration	Briefing on the Administration's responses to issues raised at the meeting on 15 December 2015 and in the letter from Mr TANG Ka-piu dated 21 December 2015 (LC Paper No. CB(1)396/15-16(02)).	

Time marker	Speaker	Subject(s)	Action required
021021 – 021429	Chairman Mr TANG Ka-piu Administration MPFA	<p>Mr TANG Ka-piu's request for the Administration to provide written information to elaborate on the operation of the transitional provisions governing the transfers of the accrued benefits of an existing member that had been invested in a guaranteed fund according to a default investment arrangement.</p> <p>Mr TANG Ka-piu's reiteration that the Administration should consider introducing a performance-based mechanism for charging of management fees by the trustees (e.g. suspension of fees in case of negative investment returns, or when such returns were not keeping up with inflation) of the Core Accumulation Fund and Age 65 Plus Fund of the DIS.</p> <p>The Administration's and MPFA's responses that –</p> <ul style="list-style-type: none"> (a) within six months after the commencement of the Bill, the approved trustee was required to notify in writing, an existing default scheme member who had not given investment instructions for all his accrued benefits that, if no reply was received from the member by the expiry of a 42-day reply period, such benefits would be transferred to and invested into the DIS within 14 days after the reply period; (b) if the accrued benefits of the default member had been invested in a guaranteed fund according to the default investment arrangement, the trustee should not invest those benefits via the DIS if, on the last day of the 42-day reply period, the market value of those benefits was less than the value guaranteed by the fund to be paid to the member on that day; and (c) the current MPF System was privately-managed, and the market-operated system would reveal whether the investment performance of the CFs was satisfactory. The Administration did not have any plans to change the privately-managed model of the MPF System nor to introduce performance-based mechanism for charging of management fees by the trustees. 	The Administration to follow up as per paragraph 3(f) of the minutes.

Time marker	Speaker	Subject(s)	Action required
021430 – 021700	Chairman Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai's request for clarification on the 10-year annualized rate of return of the mixed assets funds of the existing MPF CFs as set out in paragraph 6 of the Administration's responses (LC Paper No. CB(1)396/15-16(02)).</p> <p>The Administration's responses that –</p> <p>(a) the figures of the 10-year annualized rate of return were net return taking into account the fees and charges; and</p> <p>(b) the investment performance of the MPF System was affected by the cycles of the financial market which could be volatile at times. Past performance was not an indicator for predicting future performance.</p>	
<p><i>Clause-by-clause examination of the Bill</i> [The Bill (LC Paper No. CB(3)135/15-16)] [Marked-up copy of the Bill prepared by the Legal Service Division (LC Paper No. CB(1)287/15-16(01))]</p>			
021701 – 022250	Chairman Administration	<p>The Bills Committee commenced clause-by-clause examination of the Bill.</p> <p>Part 1 – Preliminary</p> <p><u>Clause 1 – Short title and commencement</u></p> <p><u>Clause 2 – Enactments amended</u></p> <p>Part 2 – Amendments to Mandatory Provident Fund Schemes Ordinance (Cap. 485)</p> <p><u>Clause 3 – Section 2 amended (interpretation)</u></p> <p><u>Clause 4 – Section 20B amended (revocation of approval of approved trustee)</u></p> <p><u>Clause 5 – Section 27 amended (duties and powers of approved trustees of registered schemes)</u></p> <p>Members raised no query on the above clauses.</p>	
022251 – 022818	Chairman Administration	<p><u>Clause 6 – Section 30 amended (report of auditor)</u></p> <p>The Chairman's enquiries on –</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) the difference between the terms "副本" and "一份文本" in the Chinese text of the Bill; and</p> <p>(b) whether the fees of the auditor for providing the report as required under the proposed section 30(1A) would be counted towards the fee cap of 0.75% of the DIS.</p> <p>The Administration's response that –</p> <p>(a) the proposed section 30(1A) empowered MPFA to request a trustee to provide an auditor's investigation report on its compliance with the DIS if MPFA reasonably believed that the trustee had failed to comply with DIS-related requirements. The auditor's fees incurred were classified as out-of-pocket expenses and would not be counted towards the fee cap of 0.75% of the DIS; and</p> <p>(b) from the legal drafting perspective, "副本" in English referred to a copy, and "文本" referred to an authentic and official document, but not a copy of the original document. The Administration considered it more appropriate to substitute the term "一份文本" for "副本" in the Chinese text to enhance the textual clarity.</p>	
022819 – 023054	Chairman Administration	<p><u>Clause 7 – Section 33 amended (suspension and termination of approved trustee's administration of registered scheme)</u></p> <p>Members raised no query on the above clause.</p>	
023055 – 023606	Chairman Mr SIN Chung-kai Administration	<p><u>Clause 8 – Part 4AA added</u></p> <p><i>Part 4AA – Default Investment Strategy</i></p> <p><i>Division 1 – Preliminary</i></p> <p><i>Section 34DA – Interpretation</i></p> <p>Mr SIN Chung-kai's request for clarification on the commencement date of the DIS and Schedule 10 to the MPF Schemes Ordinance ("MPFSO") in the Bill.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's response that –</p> <p>(a) after the enactment of the Bill, the DIS would come into operation on the expiry of six months beginning on the day on which it was published in the Gazette; and</p> <p>(b) Schedule 10 to the MPFSO in the Bill provided for the requirements for the DIS, including the number of CFs used for investments under the DIS; the percentage of the NAV of the DIS CFs targeted to be invested in higher risk assets; the range of variation of that percentage; and the de-risking mechanism of the DIS, etc.</p>	
<p>023607 – 024145</p>	<p>Chairman Mr TANG Ka-piu Legal Adviser to the Bills Committee ("ALA1") Administration MPFA</p>	<p><i>Division 2 – Default Investment Strategy</i></p> <p><i>Section 34DB – Approved trustee to invest accrued benefits according to default investment strategy</i></p> <p>Mr TANG Ka-piu's and ALA1's request for clarification on the restriction under the proposed section 34DB(2) on the investment of the accrued benefits of scheme members who had already reached the age of 60 before the commencement date of the DIS.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the restriction under the proposed section 34DB(2) applied to accrued benefits in a pre-existing account of members who had already reached the age of 60 before the commencement date of the DIS. That was, in respect of pre-existing accounts for which the age of the members holding those accounts were known to have reached 60 before the commencement date, section 34DB(2) applied and those accounts should not be affected by the introduction of the DIS; and</p> <p>(b) in respect of new accounts opened on or after the commencement date, a trustee had to invest the accrued benefits of a new scheme member (including those who had reached the age of 60 or whose age was unknown) who had not given any specific investment instructions into the DIS.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>At Mr TANG Ka-piu's request, the Administration had undertaken to inform the Bills Committee of the estimated number of existing default scheme members whose accrued benefits would not be transferred to and invested in the DIS under the proposed section 34DB(2) (i.e. the member had reached 60 years of age before the commencement of the Bill), and the estimated amount of accrued benefits involved.</p>	<p>The Administration to follow up as per paragraph 3(g) of the minutes.</p>
<p>024146 – 024530</p>	<p>Chairman Mr TANG Ka-piu Administration</p>	<p><i>Section 34DC – Control of payment for services relating to default investment strategy</i></p> <p><i>Section 34DC(2)</i></p> <p>Mr TANG Ka-piu's enquiry on the definition of "a specified service provider" under the proposed section 34DC(2).</p> <p>The Administration's response that the proposed section 34DC(5) made clear the interpretation of "specified service provider", in relation to an MPF scheme, as follows –</p> <p>(a) the following persons appointed or engaged by the approved trustee of the scheme to provide services for the purposes of the scheme –</p> <ul style="list-style-type: none"> (i) an investment manager of the scheme; (ii) a custodian of the scheme assets of the scheme; (iii) an administrator who administers the scheme in whole or in part; or <p>(b) a person to whom the provision of those services is delegated by such a manager, custodian or administrator.</p>	
<p>024531 – 030632</p>	<p>Chairman Mr TANG Ka-piu Mr SIN Chung-kai ALA1 Administration MPFA</p>	<p><i>Section 34DC(3)</i></p> <p>Mr TANG Ka-piu's request for clarification on whether the fees paid for the services provided by the custodian were subject to the fee cap of 0.75% of the DIS.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Mr TANG Ka-piu's concern about the possibility of the trustees circumventing the fee control by alternating fee charging practices. His request for the Administration to provide written information on –</p> <p>(a) regarding the proposed section 34DC(3), an itemized list of the fees and expenses other than the management fees permitted to be charged to the Core Accumulation Fund and Age 65 Plus Fund of the DIS, and whether such fees and expenses were recurrent or one-off in nature; and</p> <p>(b) elaboration on the interpretation of the fees and expenses permitted to be charged under the proposed section 34DC(3)(b), including the approximate amount of such fees and expenses currently charged by the trustees to the existing mixed assets funds.</p> <p>Mr SIN Chung-kai's enquiry on whether any fees would be charged to DIS members relating to the annual adjustment of asset allocation gradually from the Core Accumulation Fund to the Age 65 Plus Fund according to the de-risking mechanism of the DIS.</p> <p>ALA1's observation that no difficulties had been identified relating to the legal and drafting aspects of the proposed section 34DC(3). ALA1's suggestion that the Administration should elaborate in writing on the types of expenses covered under the proposed section 34DC(3)(b) to assist members in understanding the operation of the proposed section 34DC.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) there were two types of custodian fees. The asset-based fees paid for the services provided by the custodians were subject to the fee cap of 0.75%. Other custodian fees were transaction-based out-of-pocket expenses, which were customarily not calculated as a percentage of the NAV of the CF and were charged on an ex-ante basis. Those out-of-pocket expenses charged by custodians might vary with asset allocation, or were</p>	<p>The Administration to follow up as per paragraphs 3(d) to 3(e) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>trading fees resulting from re-balancing, etc. which could not be included in the fee cap; and</p> <p>(b) the de-risking mechanism referred to the allocation of accrued benefits of a DIS member between the Core Accumulation Fund and the Age 65 Plus Fund based on the DIS member's age. Once the DIS member reached the age of 50, the trustee would be required to adjust the accrued benefits of the DIS member annually in a manner that progressively reduced, at a constant rate, the allocation of account value to the Core Accumulation Fund, while progressively increasing, at a constant rate also, the allocation of account value to the Age 65 Plus Fund. Fees were not allowed to be charged to scheme members on transfer of accrued benefits between CFs in a scheme.</p>	
<p>030633 – 032010</p>	<p>Chairman Mr TANG Ka-piu Mr SIN Chung-kai Administration MFPA</p>	<p><i>Section 34DC(5)</i></p> <p>Mr TANG Ka-piu's and Mr SIN Chung-kai's request for elaboration on the interpretation of "underlying investment fund" and underlying investment fund fee".</p> <p>MPFA's response that –</p> <p>(a) an MPF scheme was a trust structure used for collecting, administering and investing MPF contributions. MPF schemes were comprised of a number of CFs. Most CFs did not directly invest into investment markets. They usually invest into other investment funds structured as unit trusts (known as approved pooled investment funds ("APIFs")) or sometimes into index tracking funds or insurance policies; and</p> <p>(b) the relevant controls for payment for services as set out under the proposed section 34DC (i.e. the fee cap of 0.75%) would apply to the two DIS CFs as well as those underlying investments funds.</p> <p>In response to Mr TANG Ka-piu's further enquiry, MPFA's explanation that the payment for services</p>	

Time marker	Speaker	Subject(s)	Action required
		provided relating to the DIS CF by the sponsor was subject to the fee cap of 0.75%.	
032011 – 032617	Chairman Mr TANG Ka-piu Administration	<p><i>Section 34DD – Amendment of Schedules 10 and 11</i></p> <p>In response to the Chairman's enquiry on the amendment of Schedules 10 and 11 to the MPFSO in the Bill, the Administration's explanation that the proposed section 34DD empowered the Secretary for Financial Services and the Treasury to amend the DIS investment requirements in the proposed Schedule 10 and the level of the fee cap in the proposed Schedule 11. The proposed amendment would be subject to negative vetting by the Legislative Council.</p> <p>Mr TANG Ka-piu's request for elaboration on the mechanism for reviewing and amending Schedule 10 (in respect of investment principles) and Schedule 11 (the percentage for calculation of the cap on the payment for services relating to the DIS) to the MPFSO in the Bill.</p>	The Administration to follow up as per paragraph 3(h) of the minutes.
032618 – 032707	Chairman Mr SIN Chung-kai	Mr SIN Chung-kai's request for a written response to elaborate on the interpretation of "underlying investment fund" and "underlying investment fund fee" as set out in the proposed section 34DC(5).	The Administration to follow up as per paragraph 3(i) of the minutes.
032708 – 032844	Chairman Mr TANG Ka-piu	<p>Mr TANG Ka-piu's reiteration of his request for written information on –</p> <p>(a) regarding the proposed section 34DC(3), an itemized list of the fees and expenses other than the management fees permitted to be charged to the Core Accumulation Fund and Age 65 Plus Fund of the DIS, and whether such fees and expenses were recurrent or one-off in nature;</p> <p>(b) elaboration on the interpretation of the fees and expenses permitted to be charged under the proposed section 34DC(3)(b), including the approximate amount of such fees and expenses currently charged by the trustees to the existing mixed assets funds, and to address his concern on the possibility of the trustees circumventing the fee control by alternating</p>	The Administration to follow up as per paragraphs 3(d), 3(e), 3(h) and 3(j) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>fee charging practices;</p> <p>(c) elaboration on the mechanism for reviewing and amending Schedule 10 (in respect of investment principles) and Schedule 11 (the percentage for calculation of the cap on the payment for services relating to the DIS) to the MPFSO in the Bill; and</p> <p>(d) whether the Administration would consider introducing a performance-based mechanism for charging of management fees by the trustees (e.g. suspension of fees in case of negative investment returns, or when such returns were not keeping up with inflation) of the Core Accumulation Fund and Age 65 Plus Fund of the DIS.</p>	
032845 – 032856	Chairman	<p>Meeting arrangements.</p> <p>Closing remarks.</p>	