

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1165/15-16  
(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 third meeting  
on Tuesday, 26 January 2016, at 9:30 am  
in Conference Room 2A of the Legislative Council Complex**

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

**Member absent :** Hon Kenneth LEUNG

**Public officers attending** : Agenda Item II

Mr Eddie CHEUNG  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services) 2

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

Ms Mandy NG  
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

**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

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**I. Confirmation of minutes of meeting**

(LC Paper No. CB(1)478/15-16 -- Minutes of meeting held on  
15 December 2015)

The minutes of the meeting held on 15 December 2015 were confirmed.

## **II. Meeting with the Administration**

### Matters arising from previous meeting

(LC Paper No. CB(1)480/15-16(01) -- List of follow-up actions arising from the discussion at the meeting on 11 January 2016

LC Paper No. CB(1)480/15-16(02) -- Administration's responses to submissions received and matters raised by deputations and members at the meeting on 11 January 2016)

### 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) -- Marked-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

LC Paper No. CB(1)483/15-16(01) -- Hon SIN Chung-kai's letter  
(*Chinese version only*) dated 25 January 2016)

2. The Bills Committee deliberated (Index of proceedings attached at **Annex**).
3. Mr POON Siu-ping and Mr IP Kwok-him declared that they were non-executive directors of the Mandatory Provident Fund Schemes Authority. Mr WONG Ting-kwong declared that he was the Chairman of the Mandatory Provident Fund Schemes Advisory Committee.

Follow-up action to be taken by the Administration

4. The Administration was requested to provide the following information:
  - (a) written response to Mr SIN Chung-kai's letter dated 25 January 2016 and tabled at the meeting;
  - (b) further elaboration on whether the proposed opt-out arrangements and subsequent transfer of accrued benefits from the existing default investment arrangements to the proposed Default Investment Strategy ("DIS") (especially in the case of negative return after transfer) were constitutionally in order;
  - (c) a preliminary draft of the guidelines set out in the proposed section 34DI(2);
  - (d) elaboration on the considerations of the proposed 42-day period for scheme members to opt out from the DIS arrangements, and whether the Administration would consider extending the proposed period to give more time for default scheme members to make choices for their Mandatory Provident Fund ("MPF") investments;
  - (e) elaboration on the transitional arrangements in relation to the accrued benefits of a default scheme member currently invested in guaranteed funds; and
  - (f) the estimated total amount of accrued benefits of scheme members' pre-existing accounts that might be subject to the opt-out transitional process and subsequently be transferred to and invested in the DIS, and the projection of possible further reduction in the fees charged to other MPF constituent funds managed by the trustees under the MPF System.

*(Post-meeting note: The written response provided by the Administration was issued to members vide LC Paper No. CB(1)553/15-16(02) on 11 February 2016.)*

**III. Any other business**

5. The Chairman reminded members that the next meeting would be held on Monday, 1 February 2016 at 4:30 pm to examine the draft Committee stage amendments ("CSAs") proposed by the Administration. The draft CSAs would be provided for members' information in due course. The Chairman also advised that members who intended to propose CSAs to the Bill and wished their CSAs to be considered by the Bills Committee were invited to forward their CSAs to the Bills Committee before the next meeting.

*(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the fourth meeting of the Bills Committee originally scheduled for 1 February 2016 was re-scheduled to Monday, 15 February 2016 at 9:30 am. Members were informed vide LC Paper No. CB(1)502/15-16 issued on 27 January 2016.)*

6. There being no other business, the meeting ended at 12:34 pm.

**Proceedings of the third meeting of  
the Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2015  
on Tuesday, 26 January 2016, at 9:30 am  
in Conference Room 2A of the Legislative Council Complex**

| Time marker  | Speaker                                      | Subject(s)   | Action required |
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| <b>Agenda Item I – Confirmation of minutes of meeting</b>  |  |  |                 |
| 000510 –<br>000540   | Chairman                                     | The minutes of the meeting held on 15 December 2015 were confirmed (LC Paper No. CB(1)478/15-16).  |                 |
| <b>Agenda Item II – Meeting with the Administration</b>  |  |  |                 |
| 000541 –<br>000759   | Chairman                                     | Introductory remarks.<br><br>The Chairman advised that a letter from Mr SIN Chung-kai dated 25 January 2016 was tabled at the meeting (LC Paper No. CB(1)483/15-16(01)).   |                 |
| <b>Clause-by-clause examination of the Bill</b><br>[The Bill (LC Paper No. CB(3)135/15-16)]<br>[Marked-up copy of the Bill prepared by the Legal Service Division (LC Paper No. CB(1)287/15-16(01))] |  |  |                 |
| 000800 –<br>001050   | Chairman<br>Administration                   | The Bills Committee continued clause-by-clause examination of the Bill.<br><br><u>Clause 8 – Part 4AA added</u><br><br><i>Division 3 – Transitional and Savings Provisions for Pre-existing Accounts Wholly Invested according to Default Investment Arrangement</i><br><br><i>Section 34DE – Interpretation</i><br><br><i>Section 34DF – Scheme members to whom this Division applies</i><br><br><i>Section 34DG – Accrued benefits in pre-existing account</i><br><br>Members raised no query on the above sections. |                 |
| 001051 –<br>001757   | Chairman<br>Mr Albert CHAN<br>Administration | <i>Section 34DH – Approved trustee to give specified notice to scheme member</i><br><br>Mr Albert CHAN's request for clarification on the requirement for the trustee to notify scheme members about the opt-out transitional arrangements.<br><br>The Administration's responses that –   |                 |

| Time marker        | Speaker   | Subject(s)   | Action required  |
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|                    |   | <p>(a) within six months after the commencement of the Default Investment Strategy ("DIS"), an approved trustee had to give a specified notice to a default scheme member. The specified notice would inform the default scheme member that he could choose not to invest in the DIS by specifying his investment instructions. If no reply had been received from the default scheme member within the 42-day reply period after the date of the notice, the approved trustee must transfer the accrued benefits to the DIS within 14 days after the expiry of that period; and</p> <p>(b) to avoid confusion, section 34DH(3) provided that the approved trustee should transfer the accrued benefits to and invested into the DIS as set out in paragraph (a) above regardless of any specific investment instructions received by the trustee from the member for those benefits within the 14 days after the reply period. The approved trustee should proceed to process the specific investment instructions of the members received during the 14-day period afterwards.</p> |  |
| 001758 –<br>002651 | Chairman<br>Mr SIN Chung-kai<br>Administration<br>Chief Regulation &<br>Policy Officer and<br>Executive Director,<br>Mandatory<br>Provident Fund<br>Schemes Authority<br>("MPFA") | <p>Mr SIN Chung-kai's concern that –</p> <p>(a) under the existing default investment arrangements ("DIAs") 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; and</p> <p>(b) there would be possible disputes and legal implications arising from the automatic transfer of accrued benefits to the DIS without express investment instructions from scheme members.</p> <p>Mr SIN Chung-kai's request for the Administration to provide written information to further elaborate on whether the proposed opt-out arrangements and subsequent transfer of accrued benefits from the</p>  | The<br>Administration<br>to follow up as<br>per paragraph<br>4(b) of the<br>minutes. |

| Time marker        | Speaker                                       | Subject(s)   | Action required |
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|                    |   | existing DIAs to the proposed DIS (especially in the case of negative return after transfer) were constitutionally in order.   |                 |
| 002652 –<br>003324 | Chairman<br>Mr CHAN Kin-por<br>Administration | <p>Mr CHAN Kin-por's views that –</p> <ul style="list-style-type: none"> <li>(a) the industry had reflected that it might be costly, or in some cases, impossible to identify which members had not previously made a choice of investment funds;</li> <li>(b) the industry had strongly suggested that the opt-in approach in respect of the DIS should be adopted for existing default scheme members, so as to avoid possible disputes arising from the automatic transfer of accrued benefits to the DIS without express investment instructions from scheme members; and</li> <li>(c) the Administration should continue to work with the industry in relation to the technical issues of the transitional arrangements of the DIS.</li> </ul> <p>The Administration's and MPFA's responses that –</p> <ul style="list-style-type: none"> <li>(a) the Administration had extensive discussion with the industry and had taken note of the industry's concern about the difficulty in identifying default scheme members, and their suggestion on the adoption of the opt-in transitional arrangements;</li> <li>(b) broadly speaking, only existing default scheme members who had not given investment instructions for all their accrued benefits in a pre-existing account would be subject to the transitional arrangements; and</li> <li>(c) the policy intent behind the proposed DIS was to protect the interests of disengaged scheme members who had not made their own investment decisions. Adopting the opt-in approach would defeat the policy objective of the Bill to help disengaged scheme members who did not know how to make investment choice. The opt-out approach was therefore considered appropriate.</li> </ul> |                 |



| Time marker        | Speaker  | Subject(s)  | Action required |
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| 003325 –<br>003828 | Chairman<br>Mr LEE Cheuk-yan<br>MPFA           | <p>Mr LEE Cheuk-yan's enquiry on the estimated number of existing default scheme members who would be subject to the opt-out transitional process.</p> <p>MPFA's response that –</p> <p>(a) the approved trustees roughly estimated that around one million, out of a total of 8.8 million accounts, were investing in existing default funds and might be subject to the opt-out transitional process;</p> <p>(b) the number of DIA accounts would vary over time. For example, some existing scheme members with DIA accounts might give investment instructions, some accounts might be closed, or they might be excluded from the DIS if the scheme member had reached the age of 60 before the commencement of the Bill or had their assets in guaranteed funds meeting the specified conditions; and</p> <p>(c) the current number of DIA accounts might be substantially different from that on the commencement date, and therefore it was difficult to estimate the number of DIA accounts that were eventually subject to the transitional process.</p> |                 |
| 003829 –<br>004300 | Chairman<br>Mr POON Siu-ping<br>Administration | <p>Mr POON Siu-ping declared that he was a non-executive director of MPFA.</p> <p>Mr POON Siu-ping's enquiry on whether the Administration would consider extending the proposed 42-day reply period for scheme members to opt out from the DIS, so as to address the industry' concern about the opt-out approach.</p> <p>The Administration's response that –</p> <p>(a) the 42-day reply period was proposed after extensive discussion between MPFA and the industry, making reference to similar reply period under the Mandatory Provident Fund Schemes Ordinance ("MPFSO") and taking into account the time required by scheme members to understand the DIS and its implications, as well as trustees to identify returned mail cases for follow-up; and</p>  |                 |

| Time marker        | Speaker  | Subject(s)   | Action required   |
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|                    |  | <p>(b) the Administration took note of the industry's opposition to the opt-out approach. Nevertheless, it was considered that the opt-out approach was appropriate, taking into account that the policy objective of the DIS was to protect the interests of existing default scheme members.</p>   |   |
| 004301 –<br>005509 | Chairman<br>Mr TANG Ka-piu<br>Administration<br>MPFA | <p>Mr TANG Ka-piu's views that he –</p> <p>(a) supported the opt-out transitional arrangements;</p> <p>(b) expressed concern that the approved trustees might inappropriately encourage existing default scheme members to opt out from the DIS, such as by offering gifts to those scheme members; and</p> <p>(c) requested the Administration to provide written information to elaborate on the transitional arrangements in relation to the accrued benefits of a default scheme member currently invested in guaranteed funds.</p> <p>The Administration's and MPFA's responses that the MPFSO set out the statutory conduct requirements for registered intermediary of the MPF System. A registered intermediary should act in the best interests of the client in conducting sales and marketing activities and in giving regulated advice in relation to MPF schemes or constituent funds ("CFs"). In particular, a registered intermediary should not, directly or indirectly, offer any rebates, gifts or incentives to any person for the purpose of encouraging a client to make specific investment decisions in relation to any MPF schemes or CFs.</p> | The Administration to follow up as per paragraph 4(e) of the minutes. |
| 005510 –<br>010810 | Chairman<br>Mr LEUNG<br>Kwok-hung<br>Administration  | <p>Mr LEUNG Kwok-hung's views that –</p> <p>(a) he opposed to the privately-managed MPF System; and</p> <p>(b) the Administration had the responsibility to provide retirement protection to Hong Kong people. It should introduce a single DIS, take up the role of a public trustee to operate the DIS, and provide guaranteed returns to scheme</p>   |   |

| Time marker        | Speaker   | Subject(s)  | Action required |
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|                    |   | <p>members.</p> <p>Mr LEUNG's enquiries on –</p> <p>(a) the policy objective of the introduction of the DIS; and</p> <p>(b) whether the long title of the Bill could be subject to amendment.</p> <p>The Administration's response that –</p> <p>(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 their accrued benefits; and</p> <p>(b) the long title of a bill was not subject to amendment at Committee stage of the Bill.</p>  |                 |
| 010811 –<br>011134 | Chairman<br>Mr WONG<br>Ting-kwong   | <p>Mr WONG Ting-kwong declared that he was the chairman of the MPF Schemes Advisory Committee.</p> <p>Mr WONG Ting-kwong's views that –</p> <p>(a) he supported the opt-out transitional arrangements;</p> <p>(b) he hoped that if the fee-controlled DIS could achieve a return comparable to that of similar CFs (such as mixed assets or target date funds) but with a lower fee, it would have a benchmarking effect to exert pressure on the market to reduce fees of other CFs generally; and</p> <p>(c) the Administration should also step up publicity to encourage scheme members who had multiple personal accounts to consolidate their accounts.</p> |                 |
| 011135 –<br>011757 | Chairman<br>Mr SIN Chung-kai<br>Legal Adviser to the<br>Bills Committee<br>("ALA1")<br>Administration | <p>Mr SIN Chung-kai's views that he supported the opt-out transitional arrangements, and that the Administration should ensure that they were constitutionally in order.</p>  |                 |

| Time marker                | Speaker  | Subject(s)   | Action required  |
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|                            |  | <p>Mr SIN's enquiries on –</p> <p>(a) the considerations of the proposed 42-day reply period for scheme members to opt out from the DIS, and whether the Administration would consider extending the proposed period to allow sufficient time for the default scheme members to be notified and make choices for their MPF investments, in particular during long public holidays when some people would be out of town for a relatively long period of time; and</p> <p>(b) referring to the information from the industry that there was about 10% returned mail cases of which the scheme members could not be located, the handling of such cases in respect of the opt-out transitional arrangements.</p> <p>ALA1's suggestion that the Administration should further elaborate on the constitutionality of the proposed opt-out arrangements.</p> <p>The Administration's response that the proposed section 34DI provided that the approved trustees should locate default scheme members whose contact details (e.g. addresses or telephone numbers) were unknown to the trustees in the manner and within the time limit as specified in the guidelines to be issued by MPFA.</p> | <p>The Administration to follow up as per paragraph 4(d) of the minutes.</p> |
| <p>011758 –<br/>013039</p> | <p>Chairman<br/>Mr Albert CHAN<br/>Administration<br/>MPFA</p> | <p>Mr Albert CHAN's enquiries on –</p> <p>(a) the transitional arrangements relating to the accounts of bankrupt default scheme members; and</p> <p>(b) the application of the DIS fee cap of 0.75% in the case of the DIS CFs involving multiple investment levels.</p> <p>Mr Albert CHAN's concern that an approved trustee might, instead of acting in the best interests of scheme members, choose to invest in a particular investment fund based on the amount of commission offered by the investment manager.</p> <p>The Administration's and MPFA's responses that –</p>  |  |

| Time marker        | Speaker  | Subject(s)   | Action required |
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|                    |  | <p>(a) the accrued benefits derived from mandatory contributions in an MPF scheme in respect of a scheme member were held by an approved trustee and did not vest in the trustee-in-bankruptcy by virtue of the MPFSO.. The transitional arrangements relating to the accounts of bankrupt default scheme members were the same as other default scheme members. The approved trustees were required to notify the bankrupt member in writing about the transitional arrangements;</p> <p>(b) 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) or sometimes into index tracking funds or insurance policies. 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; and</p> <p>(c) MPFA had developed regulatory tools to supervise trustees, with a view to helping them develop good corporate governance, proper risk management and a strong compliance culture within their organizations.</p> |                 |
| 013040 –<br>013141 | Chairman<br>Mr IP Kwok-him<br>MPFA             | <p>Mr IP Kwok-him declared that he was a non-executive director of MPFA.</p> <p>In response to Mr IP Kwok-him's request for clarification on the treatment of a bankrupt scheme member's MPF accrued benefits, MPFA confirmed that accrued benefits derived from mandatory contribution did not vest in the trustee-in-bankruptcy, provided that the accrued benefits were still held in the scheme member's MPF account.</p>  |                 |
| 013142–<br>013245  | Chairman<br>Mr SIN Chung-kai<br>Administration | Mr SIN Chung-kai's suggestion that the Administration should consider extending the proposed 42-day reply period for scheme members to opt out from the DIS.   |                 |

| Time marker        | Speaker  | Subject(s)   | Action required |
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| 013246 –<br>014005 | Chairman<br>Mr Albert CHAN<br>Mr SIN Chung-kai<br>Administration | <p>Mr Albert CHAN's and Mr SIN Chung-kai's concerns about the sending of notification to existing default scheme members about the DIS transitional arrangements. Their suggestions that the notification should be sent by registered mail with advice of delivery to avoid possible disputes on the manner of delivery of such notification.</p> <p>The Administration's response that in actual operation, the proposed section 34DI could adequately address members' concern and moreover, it was more appropriate to set out in guidelines the detailed procedures that were to be carried out by approved trustees to locate default scheme members whose contact details (e.g. addresses or telephone numbers) were unknown to the approved trustees. The proposed section 34DI provided that MPFA might issue such guidelines.</p>  |                 |
| 014006 –<br>014620 | Chairman<br>Mr NG Leung-sing<br>Administration                   | <p>Mr NG Leung-sing's enquiry on the merits of the proposed DIS as compared with the existing DIA.</p> <p>The Administration's response that –</p> <p>(a) at present, an approved trustee would invest the accrued benefits of a default scheme member in a single or a number of default CFs as determined by the approved trustee according to the governing rules of the scheme. There was no regulation on the design of CFs under the DIAs, resulting in a mosaic of CFs and strategies as the default arrangements in different schemes;</p> <p>(b) at present, 12 out of 38 schemes used MPF Conservative Funds as DIAs. The average annual investment return (after netting management fees) of these funds was only 0.8%;</p> <p>(c) the average annual investment return (after netting management fees) of the existing mixed assets CFs with asset allocation similar to the DIS CFs, was about 3.5%; and</p> <p>(d) the highly standardized and fee-controlled DIS was considered to be effective in protecting the interests of the disengaged scheme members by providing them with the investment solution</p> |                 |

| Time marker        | Speaker  | Subject(s)  | Action required   |
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|                    |  | that was consistent with the objective of long-term retirement savings.   |   |
| 014621 –<br>014920 | Chairman<br>Mr TANG Ka-piu<br>Administration           | <p>Mr TANG Ka-piu's view that the proposed fee cap of 0.75% should include all fees and charges (including the out-of-pocket expenses).</p> <p>Mr TANG's enquiries on –</p> <p>(a) the estimated total amount of accrued benefits of scheme members' pre-existing accounts that might be subject to the opt-out transitional process and subsequently be transferred to and invested in the DIS, and;</p> <p>(b) the projection of possible further reduction in the fees charged to other MPF CFs managed by the approved trustees under the MPF System.</p>   | The Administration to follow up as per paragraph 4(f) of the minutes. |
| 014921 –<br>015514 | Chairman<br>ALA1<br>Administration                     | <p><i>Section 34DI – Locating scheme members whose addresses are unknown etc.</i></p> <p>ALA1's request for a preliminary draft of the guidelines set out in the proposed section 34DI(2).</p> <p>ALA1's suggestion that the Administration should further elaborate on the constitutionality of the proposed opt-out arrangements to address members' concern.</p>   | The Administration to follow up as per paragraph 4(c) of the minutes. |
| 015515 –<br>020142 | Chairman<br>Mr SIN Chung-kai<br>Administration<br>MPFA | <p><i>Section 34DJ – Guaranteed funds</i></p> <p>Mr SIN Chung-kai's enquiries on –</p> <p>(a) the elaboration on "hard guarantees" and "soft guarantees" for the existing MPF guarantee funds; and</p> <p>(b) the operation of the transitional transfers of the accrued benefits of an existing member that had been invested in a guaranteed fund according to a DIA.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) "hard guarantees" referred to unconditional guarantees. For DIAs which used guaranteed funds with unconditional guarantees, the market value of the relevant guaranteed fund</p> |   |

| Time marker        | Speaker                                      | Subject(s)  | Action required |
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|                    |  | <p>was the same as its guaranteed value. Accrued benefits of default scheme members in these cases would be transferred to the DIS within the 14-day period following the 42-day reply period, unless they gave specific investment instructions to their trustees within the 42-day reply period; and</p> <p>(b) "soft guarantees" referred to conditional guarantees. The accrued benefits of a default scheme member currently invested in conditional 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.</p> |                 |
| 020143 –<br>020312 | Chairman<br>Administration                   | <p><i>Division 4 – Transitional and Savings Provisions for Pre-existing Accounts Partially Invested according to Default Investment Arrangement</i></p> <p><i>Section 34DK – Interpretation</i></p> <p><i>Section 34DL – Accrued benefits continue to be invested according to default investment arrangement</i></p> <p>Members raised no query on the above sections.</p>   |                 |
| 020313 –<br>020328 | Chairman<br>Administration                   | <p><u>Clause 9 – Section 43E amended (offence to make false or misleading statement)</u></p> <p><u>Clause 10 – Section 48 amended (amendment of Schedules)</u></p> <p>Members raised no query on the above clauses.</p>   |                 |
| 020329 –<br>020813 | Chairman<br>Mr TANG Ka-piu<br>Administration | <p><u>Clause 11 – Schedules 10 and 11 added</u></p> <p><i>Schedule 10</i></p> <p><i>Paragraph 6 – Investment strategy for scheme members whose age is uncertain</i></p> <p>Mr TANG Ka-piu's enquiry on the reason for the cases in which the age of scheme member was uncertain.</p> <p>The Administration's response that as regards the</p>   |                 |



| Time marker        | Speaker                            | Subject(s)  | Action required |
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|                    |                                    | <p>construction industry, there might be relatively more cases with the age or contact details of scheme members unknown due to the high mobility of employees, and the fact that most of them were casual employees whose employers usually registered members using the simplified mode.</p>  |                 |
| 020814 –<br>021053 | Chairman<br>ALA1<br>Administration | <p><i>Schedule 10</i></p> <p><i>Paragraph 4 – Investment strategy for scheme members who are 50 years of age or above but below 65 years of age</i></p> <p>ALA1's enquiry on whether it was permissible for a DIS member to override the proposed allocations of investment in the Core Accumulation Fund and the Age 65 Plus Fund specified in the proposed paragraph 4(3) by specifying to the approved trustee, pursuant to the proposed section 27(2A), allocations of investments which might be substantially different from the proposed allocations.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> <li>(a) the Core Accumulation Fund and the Age 65 Plus Fund were CFs of an MPF scheme; and</li> <li>(b) a scheme member might choose to invest his accrued benefits according to his selection, including the proportion of allocation of the accrued benefits in one or more CFs, as permitted under the governing rules of the scheme pursuant to the proposed section 27(2A).</li> </ul> |                 |
| 021054 –<br>021512 | Chairman<br>Administration         | <p><b>Part 3 – Amendments to Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A)</b></p> <p><u>Clause 12 – Section 2 amended (interpretation)</u></p> <p><u>Clause 13 – Section 36 amended (scheme may consist of a single constituent fund or of separate constituent funds)</u></p> <p><u>Clause 14 – Section 37 amended (provisions relating to capital preservation fund)</u></p>  |                 |

| Time marker        | Speaker   | Subject(s)   | Action required |
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|                    |   | <p><u>Clause 15 – Section 39 amended (control objectives and internal control procedures to be maintained for each registered scheme)</u></p> <p><u>Clause 16 – Section 42C amended (Authority's consent required in respect of persons proposing to become shadow directors)</u></p> <p><u>Clause 17 – Section 42D amended (Authority's consent required in respect of persons proposing to become substantial shareholders)</u></p> <p><u>Clause 18 – Section 42E amended (Authority may object to existing controllers)</u></p> <p><u>Clause 19 – Section 62 amended (approved trustee to notify Authority of events of significant nature)</u></p> <p><u>Clause 20 – Section 66 amended (approved trustee permitted to deduct from scheme members' accounts amount in respect of administrative expenses)</u></p> <p><u>Clause 21 – Section 75 amended (service providers to report certain matters to Authority)</u></p> <p><u>Clause 22 – Section 99 amended (removal and resignation of auditor)</u></p> <p><u>Clause 23 – Section 102 amended (auditor to report on financial statements etc.)</u></p> <p><u>Clause 24 – Section 103 amended (auditor to report certain matters to Authority)</u></p> <p><u>Clause 25 – Section 117 amended (approved trustee to lodge monthly return with Authority)</u></p> <p>Members raised no query on the above clauses.</p> |                 |
| 021513 –<br>021800 | Chairman<br>Mr WONG<br>Ting-kwong<br>Administration | <p><u>Clause 26 – Schedule 4 amended (financial penalties)</u></p> <p>Mr WONG Ting-kwong's request for elaboration on the financial penalties for the trustees' failure to comply with DIS-related requirements.</p> <p>The Administration's response that if an approved trustee had failed to comply with DIS-related</p>  |                 |

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|                    |   | <p>requirements such as failing to transfer default scheme members' accrued benefits to the DIS CFs for investment according to the DIS, the approved trustee concerned were to be subject to the amount of financial penalty proposed to be set out in Schedule 4 to the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A).</p>   |                 |
| 021801 –<br>021820 | Chairman<br>ALA1  | <p>The Bills Committee completed clause-by-clause examination of the Bill.</p> <p>ALA1's observation that no difficulties had been identified relating to the legal and drafting aspects of the English text of the Bill.</p>  |                 |
| 021821 –<br>022550 | Chairman<br>Mr SIN Chung-kai<br>Mr WONG<br>Ting-kwong<br>Administration<br>MPFA | <p>Mr SIN Chung-kai's and Mr WONG Ting-kwong's request for further clarification on –</p> <p>(a) the transitional arrangements in relation to the accrued benefits of a default scheme member currently invested in conditional guaranteed funds; and</p> <p>(b) the monitoring mechanism to ensure that the approved trustees had implemented the transitional process correctly, in particular in comparing the market value and the guaranteed value of a conditional guaranteed fund on the expiry day of the 42-day reply period.</p> <p>The Administration's and MPFA's responses that –</p> <p>(a) the accrued benefits of a default scheme member currently invested in conditional 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. That said, default scheme members could, at any time before or after the transitional process, give specific investment instructions to their approved trustees to invest in the DIS if they did not want to stay in the guaranteed funds;</p> <p>(b) the approved trustees had all along been maintaining records of the market value and guaranteed value of the guaranteed funds at all times. The methodology of comparing the</p> |                 |

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|   |  | <p>market value and guaranteed value was not complex; and</p> <p>(c) the approved trustees would be required to report to MPFA the relevant information and data relating to the transfers of accrued benefits to the DIS under the transitional arrangements, in particular for the current two approved trustees using conditional guaranteed funds as DIAs.</p>   |                 |
| <b><i>Matters arising from previous meeting</i></b> |  |  |                 |
| 022551 –<br>023226                                  | Chairman<br>Administration                           | Briefing on the Administration's responses to submissions received and matters raised by deputations and members at the meeting on 11 January 2016 (LC Paper No. CB(1)480/15-16(02)).  |                 |
| 023227 –<br>023925                                  | Chairman<br>Mr TANG Ka-piu<br>Administration<br>MPFA | <p>Mr TANG Ka-piu's views and concerns that –</p> <p>(a) he supported the introduction of the DIS;</p> <p>(b) 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 DIS CFs;</p> <p>(c) the custodians might circumvent the fee control by alternating fee charging practices. He considered that the proposed section 34DC(3)(b) should be deleted; and</p> <p>(d) MPFA and the Securities and Futures Commission should consider waiving the relevant charges, authorization fee and annual fee relating to the application and operation of MPF CFs, so as to help reduce the administrative expenses of the MPF CFs.</p> <p>The Administration's and MPFA's responses that 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</p> |                 |

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|                    |   | over which the manager had no control.  |                 |
| 023926 –<br>024216 | Chairman<br>Mr WONG<br>Ting-kwong<br>Administration | <p>Mr WONG Ting-kwong did not support the performance-based mechanism for charging of management fees by the trustees.</p> <p>Mr WONG's enquiry on the timetable of the publicity campaign of the DIS, and his views that the Administration and MPFA should clearly inform the public about the timetable and process of the transitional arrangements through the publicity campaign.</p> <p>The Administration's response that –</p> <p>(a) it was expected that the DIS would be launched before end 2016; and</p> <p>(b) MPFA would mount a large-scale publicity campaign a few months prior to the launch of the DIS to enhance public understanding of it, including the impact of the transitional arrangements.</p>   |                 |
| 024217 –<br>025038 | Chairman<br>Mr SIN Chung-kai<br>MPFA                | <p>Mr SIN Chung-kai's reiteration that the Administration should consider whether it would be necessary to extend the proposed 42-day reply period to allow sufficient time for the default scheme members to be notified and make choices for their MPF investments, in particular during long public holidays when some people would be out of town for a relatively long period of time.</p> <p>MPFA's response that –</p> <p>(a) the 42-day reply period was proposed after extensive discussion between MPFA and the industry;</p> <p>(b) after taking into account the trustees' views, MPFA considered that the length of the reply period should –</p> <p>(i) be reasonably sufficient for default scheme members to understand the DIS and its implications and give a reply to the trustees should they prefer to invest their accrued benefits in some other manner;</p> |                 |

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|                    |  | <p>(ii) be reasonably sufficient for approved trustees to identify the returned mail cases, process those cases for which replies had been received and handle those cases with no reply received in accordance with the law;</p> <p>(iii) not be too long such that default scheme members would tend to set aside the specified notice for the time being, only to have forgotten all about it by the end of the reply period; and</p> <p>(c) the trustees would be reminded to avoid issuing the specified notice at a time such that the 42-day reply period would expire during the period of long public holidays.</p>   |                 |
| 025039 –<br>025137 | Chairman<br>Mr TANG Ka-piu<br>Administration | The Chairman advised that the Bills Committee would examine the draft Committee stage amendments ("CSAs") proposed by the Administration at the next meeting. The draft CSAs would be provided for members' information in due course.   |                 |
| 025138 –<br>025509 | Chairman<br>Mr TANG Ka-piu<br>Administration | <p>Mr TANG Ka-piu's views that –</p> <p>(a) he would consider proposing a CSA to the Bill to introduce a performance-based mechanism for charging of management fees by the trustees; and</p> <p>(b) the Administration should provide guaranteed returns to scheme members (similar to the guaranteed returns offered by iBond issued by the Administration).</p> <p>The Administration's response that –</p> <p>(a) it was difficult to include any investment performance-based elements under the fee control mechanism proposed for the DIS; and</p> <p>(b) the provision of guaranteed returns to scheme members by the Government would involve huge financial commitment of the Government, and the costs of which would ultimately be borne by taxpayers.</p> |                 |

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| 025510 –<br>025634                          | Chairman<br>Mr SIN Chung-kai<br>Administration          | Mr SIN Chung-kai's enquiry on the commencement date of the DIS.<br><br>The Administration's response that it would consider proposing a CSA to the Bill so as to provide certainty to the timing of the implementation of the DIS, i.e. on 31 December 2016.  |                 |
| 025635 –<br>030404                          | Chairman<br>Mr CHUNG Kwok-pan<br>Administration<br>MPFA | Mr CHUNG Kwok-pan's view that the proposed fee cap of 0.75% should include all fees and charges (including the out-of-pocket expenses).<br><br>The Administration's and MPFA's responses that –<br><br>(a) 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 net asset value of the CFs; and<br><br>(b) the Administration would review the fee cap with a view to adjusting the level downward further in the future. |                 |
| <b>Agenda Item III – Any other business</b> |   |   |                 |
| 030405 –<br>030519                          | Chairman  | The Chairman's remarks that members who intended to propose CSAs to the Bill and wished their CSAs to be considered by the Bills Committee were invited to forward their CSAs to the Bills Committee before the next meeting.<br><br>Date of next meeting.  |                 |