

Mandatory Provident Fund Schemes (Amendment) Bill 2015

**Committee Stage**

Amendments to be moved by the Secretary for Financial Services and the  
Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting subclause (2) and substituting— “(2) This Ordinance comes into operation on 31 December 2016.”.
4	In the proposed section 20B(1)(d)(v), by adding “or (1A)” after “34DG(1)”.
4	By adding after the proposed section 20B(1)(d)(iii)— “(iia) section 34DBA(1);”.
6(2)	In the proposed section 30(1A), by adding “34DBA(1),” after “34DB(1)(a), (b), (c) or (d),”.
7(3)	By adding after the proposed section 33(1)(c)(ii)— “(ia) section 34DBA(1);”.
7(3)	In the proposed section 33(1)(c)(iv), by adding “or (1A)” after “34DG(1)”.

- 7(6) By adding after the proposed section 33(6)(c)(ii)—  
“(iia) section 34DBA(1);”
- 7(6) In the proposed section 33(6)(c)(iv), by adding “or (1A)” after  
“34DG(1)”.
- 8 By deleting the proposed section 34DB(1)(c) and substituting—  
“(c) subject to subsections (1A), (2) and (3), must invest the  
accrued benefits of a scheme member according to the  
strategy; and”.
- 8 In the proposed section 34DB, by adding—  
“(1A) The operation of subsection (1)(c) is subject to—  
(a) any specific investment instructions given by the  
member for the accrued benefits; and  
(b) Divisions 3 and 4.”.
- 8 By deleting the proposed section 34DB(2) and substituting—  
“(2) The trustee must not invest the accrued benefits in a  
pre-existing account of a scheme member according to  
the strategy if the trustee is aware that the member has  
reached 60 years of age before the commencement date,  
unless the member has given specific investment  
instructions to invest those benefits according to the  
strategy.”.
- 8 In the proposed section 34DB, by adding—  
“(3) Subsection (1)(c) does not apply to oblige the trustee to  
invest the accrued benefits in an account of a scheme  
member according to the strategy if—  
(a) any or all of the accrued benefits in that account—  
(i) have been transferred from an account in  
another registered scheme to that account in  
a restructuring to which the Authority  
consented under section 34B(5); and  
(ii) were not invested according to the strategy  
before the restructuring; or  
(b) all or any of the accrued benefits in that account  
have been invested in a constituent fund but the  
approval granted in respect of the fund has been

cancelled by the Authority under section 21BB(1).”.

8

By adding—

**“34DBA. Transfer of accrued benefits to an account within the same registered scheme**

- (1) If any or all of the accrued benefits in an account of a scheme member of a registered scheme (*transferor account*) are transferred to another account of the member within the scheme (*transferee account*), then the approved trustee of the scheme must ensure that the transferred benefits remain invested in the same manner as they were invested immediately before the transfer, unless the member otherwise instructs as permitted under the governing rules.
- (2) For the purposes of this section—
  - (a) section 27(2A) does not apply to oblige the trustee to invest the transferred benefits according to any specific investment instructions that the member has given before the transfer for the accrued benefits in the transferee account; and
  - (b) section 34DB(1)(c) does not apply to oblige the trustee to invest the transferred benefits according to the default investment strategy if the member has given specific investment instructions for the transferred benefits before the transfer.
- (3) In this section—

*transferred benefits* (轉移權益) means the accrued benefits in the transferor account that are transferred, or have been transferred, to the transferee account.”.

8

In the proposed section 34DE, by deleting the definition of *default investment arrangement* and substituting—

**“default investment arrangement (預設投資安排)—**

- (a) means a default arrangement—
  - (i) provided before the commencement date in

- the governing rules of a registered scheme;  
and
- (ii) under which the accrued benefits in an account of a scheme member who has not given any specific investment instructions for those benefits are invested; but
- (b) does not include an arrangement for investing the accrued benefits in an account of a registered scheme—
  - (i) that have been transferred from an account in another registered scheme to that account in a restructuring to which the Authority consented under section 34B(5); or
  - (ii) in another constituent fund due to the Authority’s cancellation, under this Ordinance, of the approval granted in respect of a constituent fund in which the accrued benefits were invested.”.

8                   In the proposed section 34DE, in the definition of ***DIA account***, by deleting “section 34DF(b)” and substituting “section 34DF(1)(b)”.

8                   By deleting the proposed section 34DF and substituting—

**“34DF. Scheme members to whom this Division applies**

- (1) This Division applies to a scheme member of a registered scheme if—
  - (a) either of the following descriptions is met—
    - (i) the member is below 60 years of age, or becomes 60 years of age, on the commencement date;
    - (ii) the approved trustee of the scheme is not aware of the age of the member; and
  - (b) all of the accrued benefits in a pre-existing account of the member were, as at the commencement date, invested according to a default investment arrangement of the scheme and, since then, have remained so invested.
- (2) Despite subsection (1), this Division does not apply to the member if the trustee reasonably believes that the trustee has received specific

investment instructions from the member to invest any of the accrued benefits in the pre-existing account according to the default investment arrangement.”.

8

By deleting the proposed section 34DG and substituting—

**“34DG. Accrued benefits in pre-existing account**

- (1) The approved trustee of a registered scheme must continue to invest the accrued benefits in the DIA account of an existing member according to the default investment arrangement of the scheme unless the trustee has received specific investment instructions from the member for those benefits.
- (1A) Despite subsection (1), if those benefits have become invested according to the default investment strategy under section 34DH(2) or 34DI(3) or (5), the trustee must continue to invest any accrued benefits in the account according to the default investment strategy, whether or not the member is still an existing member, unless the trustee has received specific investment instructions from the member for the benefits in that account.
- (2) Subsection (1) does not limit the operation of sections 34DH, 34DI and 34DJ.”.

8

By deleting the proposed section 34DH(2) and substituting—

- “(2) Subject to section 34DJ, if, by the expiry day of the reply period for a specified notice given under subsection (1) to a scheme member—
  - (a) the trustee has not received specific investment instructions from the member for the accrued benefits in a DIA account of the member; and
  - (b) the member is still an existing member, the trustee must, within 14 days after the expiry day, invest those benefits in the account according to the default investment strategy of the scheme.”.

8

In the proposed section 34DI(1)(b)—

- (a) by deleting “does not know” and substituting “is not aware of”;
- (b) by deleting “the specified” and substituting “a specified”.

8 By deleting the proposed section 34DI(3) and substituting—

- “(3) Subject to section 34DJ, if, after subsection (2) has been complied with in respect of a scheme member—
- (a) the member cannot be located before the expiry of the time limit; and
  - (b) the member is still an existing member, the trustee must, within 14 days after the expiry of the time limit, invest the accrued benefits in the DIA account, or all of the DIA accounts, of the member, according to the default investment strategy of the scheme.”.

8 By deleting the proposed section 34DI(4) and substituting—

- “(4) If a scheme member in relation to whom subsection (2) applies is located before the expiry of the time limit, and the member is still an existing member, the trustee must, within 14 days after the day on which the member is located—
- (a) in a case falling within subsection (1)(a), give another specified notice to the member informing the member of the requirements under subsection (5); or
  - (b) in a case falling within subsection (1)(b), give a specified notice to the member informing the member of the requirements under subsection (5).”.

8 By deleting the proposed section 34DI(5) and substituting—

- “(5) For the purposes of subsection (4) and subject to section 34DJ, if, by the expiry day of the reply period for the notice given under that subsection—
- (a) the trustee has not received specific investment instructions from the member for the accrued benefits in a DIA account of the member; and
  - (b) the member is still an existing member, the trustee must, within 14 days after the expiry day, invest those benefits in the account according to the default investment strategy of the scheme.”.

9(2) In the English text, by deleting “After” and substituting “At”.

11 In the proposed Schedule 10, by deleting section 4(2) and substituting—

- “(2) The approved trustee of the scheme must—
- (a) invest the accrued benefits of the member in the Core Accumulation Fund and the Age 65 Plus Fund;
  - (b) if the member’s accrued benefits have been invested under section 3 of this Schedule but not yet invested under this section—
    - (i) invest, within 60 days beginning on the member’s 50th birthday, a portion of the member’s investments in the Core Accumulation Fund and the Age 65 Plus Fund; and
    - (ii) ensure that immediately after the investment is made, the investments in the respective funds, each relative to the member’s total investments in both funds, are of the percentages set out in columns 2 and 3, opposite to the age of 50 in column 1, of the table in subsection (3) (*Table*);
  - (c) if the member’s accrued benefits have been invested under this section—
    - (i) allocate, once in each year within 60 days beginning on the birthday of the member in that year, the member’s investments in the Core Accumulation Fund and the Age 65 Plus Fund respectively; and
    - (ii) ensure that immediately after the allocation, the investments in the respective funds, each relative to the member’s total investments in both funds, are of the percentages set out in columns 2 and 3, opposite to the member’s age in column 1, of the Table; and
  - (d) for accrued benefits in the member’s account in a particular year that have not been invested under this section, invest those benefits in the Core Accumulation Fund and the Age 65 Plus Fund according to the proportion expressed in the percentages set out in columns 2 and 3, opposite to the member’s age in column 1, of the Table.”.

15 In the proposed section 39(2)(ca)(ii), by adding—

- “(iia) section 34DBA(1);”.

- 15 In the proposed section 39(2)(ca)(iv), by adding “or (1A)” after  
“34DG(1)”.
- 21 In the proposed section 75(1)(aa)(ii), by adding—  
“(iia) section 34DBA(1);”.
- 21 In the proposed section 75(1)(aa)(iv), by adding “or (1A)” after  
“34DG(1)”.
- 23(2) In the proposed section 102(2)(e), by adding “34DBA(1),” after  
“34DB(1)(a), (b), (c) and (d),”.
- 24 In the proposed section 103(1)(ab)(i), by adding—  
“(ia) section 34DBA(1);”.
- 26 In the proposed item 4F—
- (a) by deleting “who has reached” and substituting “ who the trustee  
is aware has reached”;
  - (b) by adding “unless having received specific investment  
instructions” after “Ordinance”.
- 26 By adding after the proposed item 4F—  
“4FA 34DBA(1) Approved trustee 10,000 20,000 50,000”.  
to ensure  
transferred  
benefits remain  
invested in the  
same manner as  
they were  
invested  
immediately  
before the  
transfer unless  
scheme member  
otherwise



instructs

26

By adding after the proposed item 4I—

“4IA 34DG(1A) Approved trustee 10,000 20,000 50,000”.  
 to continue to  
 invest any  
 accrued benefits  
 in DIA account  
 according to  
 default  
 investment  
 strategy after  
 accrued benefits  
 have been  
 invested  
 according to  
 strategy under  
 section 34DH(2)  
 or 34DI(3) or (5)  
 unless having  
 received specific  
 investment  
 instructions