

立法會
Legislative Council

LC Paper No. LS52/16-17

**Paper for the House Committee Meeting
on 7 April 2017**

**Legal Service Division Report on
Proposed Resolution under section 46 of the
Mandatory Provident Fund Schemes Ordinance (Cap. 485)**

The Secretary for Financial Services and the Treasury has given notice to move a motion at the Legislative Council ("LegCo") meeting of 26 April 2017 to seek LegCo's approval of the Mandatory Provident Fund Schemes (Fees) (Amendment) Regulation 2017 ("Amendment Regulation") made by the Chief Executive in Council under section 46 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

2. The Amendment Regulation seeks to amend the Mandatory Provident Fund Schemes (Fees) Regulation (Cap. 485C) to specify certain fees concerning Mandatory Provident Fund ("MPF") intermediaries, and to increase four items of fees prescribed for the purposes of the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485B) with effect from 1 January 2018.

3. Sections 34T to 34W and 34ZN of Cap. 485 provide for, among other things, the application for registration and approval of an MPF intermediary for the purpose of carrying on regulated activities under Cap. 485, and the annual fee payable by a registered MPF intermediary. These sections also provide that the fees are to be prescribed by regulations made under Cap. 485. These fees, which are specified in items 8 to 12 of Schedule 1 to Cap. 485C, are currently set at nil.

4. The Amendment Regulation seeks to specify the amount of fees for items 8 to 12 of Schedule 1 to Cap. 485C ("the MPF intermediary fees") which will take effect from 1 January 2018. The proposed fees are set out below:

Item no. in Schedule 1 to Cap. 485C	Description of Fee	Existing Fee	Proposed Fee
8	Application fee for registration as a principal intermediary ("PI")	Nil	\$2,340
9	Application fee for registration as a subsidiary intermediary ("SI")	Nil	\$290
10	Application fee for approval of attachment of a SI to a PI	Nil	\$130
11	Application fee for approval as an officer with specified responsibilities in relation to the principal applicant	Nil	\$660
12(a)	Annual fee payable by a registered PI	Nil	\$1,430
12(b)	Annual fee payable by a registered SI	Nil	\$180

5. The Amendment Regulation also seeks to increase the four items of fees specified in Schedule 3 to Cap. 485C with effect from 1 January 2018. These four items of fees concern the application fees for MPF exemption certificates in respect of a scheme registered under the Occupational Retirement Schemes Ordinance (Cap. 426) ("ORSO Scheme") and the application fees for approval to the appointment of certain types of trustees of an ORSO Scheme which is exempted under Cap. 485. These items of fees have not been revised since 1999. The essential details of the proposed increase are set out below:

Item no. in Schedule 3 to Cap. 485C	Description of Fee	Existing Fee	Proposed Fee
2(a)	Application fee for an exemption certificate in respect of an ORSO Scheme which is a participating scheme of a pooling agreement	\$1,200	\$1,800
2(b)	Application fee for an exemption certificate in respect of an ORSO Scheme which is not a participating scheme of a pooling agreement	\$2,400	\$3,700
4(b)	Application fee for approval to the appointment of a trustee of a scheme which is a company incorporated outside Hong Kong	\$11,250	\$11,800

Item no. in Schedule 3 to Cap. 485C	Description of Fee	Existing Fee	Proposed Fee
4(c)	Application fee for approval to the appointment of a director of an applicable trustee of a scheme, or a trustee who is a natural person	\$4,900	\$5,100

6. According to paragraph 5 of the LegCo Brief (File Ref: MPF/3/2/5C(2016)Pt.4) issued by the Financial Services and the Treasury Bureau on 22 March 2017, the proposed fees in the Amendment Regulation are set, or increased, based on the cost-recovery principle. The proposed MPF intermediary fees represent about 60% of the relevant costs. According to the Administration, the arrangement is made to reduce the cost burden on small and medium-sized enterprises. The Mandatory Provident Fund Schemes Authority ("MPFA") plans to review the MPF intermediary fees in five years with a view to bringing them progressively to full-cost recovery levels.

7. According to paragraph 17 of the LegCo Brief, MPFA consulted industry bodies on the proposed fees from October 2016 to January 2017. The Administration has taken into account the industry's views when finalizing the fee proposal.

8. Members may note that the Administration has also made the Occupational Retirement Schemes (Fees) (Amendment) Rules 2017 (L.N. 43) to increase eight items of fees relating to ORSO Schemes and schemes which are exempted under Cap. 426. The Legal Service Division's report on L.N. 43 was issued to Members on 6 April 2017 (LC Paper No. LS50/16-17).

9. As advised by the Clerk to the Panel on Financial Affairs, the Panel was consulted on the proposal to charge fees relating to the regulation of MPF intermediaries at the meeting on 6 February 2017. Members had no objection to the proposal.

10. No difficulties have been identified in the legal and drafting respects of the Amendment Regulation.

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