

立法會
Legislative Council

LC Paper No. CB(1)285/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/SS/1/16

**Subcommittee on Mandatory Provident Fund Schemes (Amendment)
Ordinance 2016 (Commencement) Notice**

**First meeting on
Friday, 11 November 2016, at 11:00 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon WU Chi-wai, MH
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon LUK Chung-hung
Dr Hon LAU Siu-lai

Member absent : Hon LEUNG Kwok-hung

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

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

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

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Ms Connie HO
Senior Council Secretary (1)3

Miss Judy YEE
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Election of Chairman

Election of Chairman

Mr Jeffery LAM, the member who had the highest precedence among members of the Subcommittee present at the meeting, presided over the election of the chairman of the Subcommittee.

2. Mr Jeffery LAM invited nominations for the chairmanship of the Subcommittee. Mr LAM was nominated by Mr WONG Ting-kwong and the nomination was seconded by Dr CHIANG Lai-wan. Mr LAM accepted the nomination.

3. There being no other nominations, Mr Jeffery LAM was declared Chairman of the Subcommittee.

4. Members agreed that it was not necessary to elect a Deputy Chairman.

II. Meeting with the Administration

(L. N. 156 of 2016

-- Mandatory Provident Fund
Schemes (Amendment)
Ordinance 2016
(Commencement) Notice

LC Paper No. CB(2)25/16-17(01)

-- Letter dated 14 October 2016
from the Secretary for
Financial Services and the
Treasury

LC Paper No. LS3/16-17

-- Legal Service Division
Report

LC Paper No. CB(1) 102/16-17(01) -- Paper on Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Commencement) Notice prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)103/16-17(01) -- Administration's paper on Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Commencement) Notice (Powerpoint presentation material)
(tabled at the meeting and subsequently issued on the same day)

5. The Subcommittee deliberated (Index of proceedings attached at **Annex**).

III. Any other business

Legislative timetable

6. The Subcommittee completed the scrutiny of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Commencement) Notice ("Commencement Notice"). The Subcommittee would not propose any amendment to the Commencement Notice.

7. The Chairman proposed to move at the Council meeting of 16 November 2016 a proposed resolution to extend the scrutiny period of the Commencement Notice to 7 December 2016. If the motion was passed, the deadline for giving notice of motion to amend the Commencement Notice would be 30 November 2016. The Chairman would report the deliberations of the Subcommittee to the House Committee on 25 November 2016. Members agreed.

8. There being no other business, the meeting ended at 11:59 am.

Proceedings of the first meeting of the Subcommittee on Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Commencement) Notice on Friday, 11 November 2016, at 11:00 am in Conference Room 2B of the Legislative Council Complex

Time marker	Speaker	Subject(s)	Action required
000000 – 000217	Mr Jeffrey LAM Kin-fung Mr WONG Ting-kwong Dr CHIANG Lai-wan	<u>Election of Chairman</u> Mr Jeffrey LAM Kin-fung was elected Chairman of the Subcommittee.	
000218 – 000420	Chairman	Opening remarks by the Chairman.	
000421 – 002420	Chairman Administration	Briefing by the Administration on the Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Commencement) Notice ("Commencement Notice").	
002421 – 003042	Chairman Mr LUK Chung-hung Administration	Mr LUK Chung-hung suggested that the Administration should – (a) consider introducing a performance-based mechanism for controlling the management fees charged by the approved trustees of Default Investment Strategy ("DIS") in future, so as to help protect the accrued benefits of scheme members and drive approved trustees to maintain reasonable investment returns under DIS; (b) conduct an annual review of the fee cap level of management fees to identify room for lowering the level of fees and charges; and (c) mount large-scale publicity campaigns to facilitate the general public to be fully aware of the DIS arrangements. The Administration advised that – (a) there was no logical link between the fees chargeable by the approved trustees and investment performance. It also appeared quite arbitrary to peg the management fees to the investment outcome of a particular index over which	

Time marker	Speaker	Subject(s)	Action required
		<p>the approved trustees had no control;</p> <p>(b) the fee cap level would be reviewed within three years after the launch of DIS with a view to lowering the level further; and</p> <p>(c) more publicity on DIS would be carried out.</p>	
003043 – 003340	Chairman Mr CHAN Kin-por Administration	<p>Mr CHAN Kin-por requested the Administration –</p> <p>(a) to step up publicity to raise public awareness of the transitional opt-out arrangements for DIS to avoid possible disputes and legal proceedings arising from the transfer of default scheme members' accrued benefits to DIS in cases where the default scheme members neglected or otherwise failed to opt out; and</p> <p>(b) to ensure that DIS had the technical and manpower support for its implementation on the commencement date.</p> <p>The Administration responded that –</p> <p>(a) publicity on DIS would be done in phases, one of which would specifically highlight the transitional opt-out arrangements; and</p> <p>(b) the Mandatory Provident Fund Schemes Authority ("MPFA") and approved trustees were actively preparing for the DIS implementation. MPFA was in the progress of considering the approved trustees' applications for approval of the DIS constituent funds ("CFs") and amendments to scheme documents, and promulgating guidelines relating to the DIS implementation. The approved trustees were enhancing the Mandatory Provident Fund ("MPF") administration</p>	

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		<p>and computer systems, amending relevant MPF scheme documents and operation procedures, and revising the internal control measures.</p>	
003341 – 004303	<p>Chairman Dr Fernando CHEUNG Chiu-hung Administration</p>	<p>Dr Fernando CHEUNG Chiu-hung's views and suggestions –</p> <ul style="list-style-type: none"> (a) the management fee cap level could be adjusted downward further in future; (b) whether any analysis of investment strategies of different risk levels had been conducted before introducing DIS; and (c) the Administration should mount large-scale publicity campaigns to facilitate the general public to be fully aware of the DIS arrangements. <p>MPFA responded that –</p> <ul style="list-style-type: none"> (a) the sum of the management fee cap and out-of-pocket expenses cap (0.75% and 0.2% respectively) was lower than the average fund expense ratio ("FER") and the majority of the MPF CFs. It should be noted that the management fee cap and out-of-pocket expenses cap would cover items which were not the same as those covered in FER, though they should approximate; and (b) the recommendations of a research study by the Organization for Economic Co-operation and Development, international practices and local expert consensus had been taken into account when the Administration and MPFA proposed the allocation of higher risk assets and lower risk assets in the two DIS CFs. The de-risking investment principle under DIS represented a good balance of empirical analysis and observed practice. 	

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		<p>Chairman's views –</p> <p>(a) the Administration should explore mounting publicity campaigns through various media; and</p> <p>(b) review the fee cap level after the launch of DIS with a view to lowering the level further.</p>	
004304 – 004515	Chairman Mr POON Siu-ping Administration	<p>Mr POON Siu-ping enquired as to whether the number of default scheme members to be affected by DIS had changed since the passage of the Bill in May 2016.</p> <p>MPFA responded that the number of default scheme members seemed to have decreased since the passage of the Bill in May 2016. As some of these scheme members might choose to invest in DIS, the approved trustees were reminded that the advice about fund choice should be based on suitability assessments of individual scheme members.</p>	
004516 – 005116	Chairman Mr Holden CHOW Ho-ding Administration	<p>Mr Holden CHOW Ho-ding enquired –</p> <p>(a) about the risk level of the Core Accumulation Fund compared with other existing funds which may carry lower risk levels; and</p> <p>(b) as to the reasons for not transferring the accrued benefits of a default scheme member who was aged 60 and above before the commencement of DIS, and how it was decided whether the transfer of scheme members' accrued benefits invested in guaranteed funds to DIS would lead to the loss of the promised return for scheme members.</p> <p>MPFA responded that –</p> <p>(a) while on average, the Core Accumulation Fund took on more risks compared to certain existing CFs in the default</p>	

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		<p>investment arrangements, the globally diversified and de-risking investment principles of DIS had taken into account the need to balance the investment risks over a 40-year benefits accumulation period and to reduce the prospect of getting extremely negative returns for a member as he approached retirement age; and</p> <p>(b) the accrued benefits of a default scheme member aged 60 and above before the commencement of DIS would not be re-invested into DIS because the de-risking strategy based on age was unlikely to bring significant benefits to a member who was about to retire. Furthermore, approved trustees would not transfer the accrued benefits of an existing default scheme member to DIS if it would cost him the promised return in guaranteed fund in the circumstances where the guaranteed value of the benefits invested in the guaranteed fund was higher than the actual market value of those benefits. Yet, these two types of scheme members could still choose to invest in DIS after the commencement if they wanted to.</p>	
005117 – 005713	Chairman Mr CHUNG Kwok-pan Administration	<p>Mr CHUNG Kwok-pan enquired when the transfer of accrued benefits of default scheme members under DIS would be fully completed.</p> <p>MPFA advised that taking into account the time required for approved trustees to issue the DIS Re-investment Notice to existing default scheme members (i.e. during the six-month period after the commencement of DIS), existing default scheme members to respond to the notice (i.e. a 42-day period) and trustees to process subsequent investment instructions (i.e. a 14-day period), it was estimated that the transition would be fully completed by early December 2017.</p>	

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005714 – 010000	Chairman Administration	The Subcommittee completed the scrutiny of the Commencement Notice, and did not propose any amendment to it. Legislative timetable.	

Council Business Division 1
Legislative Council Secretariat
8 December 2016