

立法會
Legislative Council

LC Paper No. CB(1)927/19-20
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/19/2

**Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2019**

**Minutes of the first meeting on
Monday, 18 May 2020, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Christopher CHEUNG Wah-fung, SBS, JP
(Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon CHAN Chun-ying, JP
Hon LUK Chung-hung, JP

Members absent : Hon CHAN Kin-por, GBS, JP
Hon CHUNG Kwok-pan

Public officers attending : Mr Aaron LIU, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)²

Ms Joan HUNG
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services) Mandatory
Provident Fund Reform

Ms Phyllis POON
Senior Government Counsel
Department of Justice

Ms Marie SIU
Government Counsel
Department of Justice

Attendance by invitation : Mr CHENG Yan-chee
Chief Corporate Affairs Officer and Executive Director
Mandatory Provident Fund Schemes Authority

Ms Gabriella YEE
Executive Director (Policy)
Mandatory Provident Fund Schemes Authority

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Hugo CHIU
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Ms Vivian CHAN
Clerical Assistant (1)4

Action

I Election of Chairman

Election of Chairman

Mr Abraham SHEK, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Christopher CHEUNG was nominated by Mr WONG Ting-kwong and the nomination was seconded by Mr CHAN Chun-ying. Mr Christopher

Action

CHEUNG accepted the nomination. There being no other nomination, Mr Abraham SHEK declared that Mr Christopher CHEUNG was elected the Chairman of the Bills Committee. Mr CHEUNG then took the chair.

Election of Deputy Chairman

3. Members agreed that there was no need to elect a Deputy Chairman.

II Meeting with the Administration

(LC Paper No. CB(3)773/18-19	— The Bill
File Ref: MPF/2/1/42C	— Legislative Council Brief
LC Paper No. LS6/19-20	— Legal Service Division Report
LC Paper No. CB(1)631/19-20(01)	— Marked-up copy of the Mandatory Provident Fund Schemes (Amendment) Bill 2019 prepared by the Legal Service Division (Restricted to members only)
LC Paper No. CB(1)631/19-20(02)	— Letter dated 13 May 2020 from the Legal Service Division to the Administration
LC Paper No. CB(1)631/19-20(03)	Background brief prepared by the Legislative Council Secretariat)

Declaration of interest

4. Mr WONG Ting-kwong declared that he had been a Non-executive Director of the Mandatory Provident Fund Schemes Authority ("MPFA") and the Chairman of MPF Schemes Advisory Committee. Mr Abraham SHEK declared that he was a Non-executive Director of MPFA. Mr Paul TSE declared that he was an employer and had to make Mandatory Provident Fund contributions.

Action

Discussion

5. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Invitation of views

6. Members agreed to post a notice on the website of the Legislative Council ("LegCo") and write to the 18 District Councils ("DCs") to invite written views on the Mandatory Provident Fund Schemes (Amendment) Bill 2019.

(Post-meeting note: The notice to invite interested parties for written submissions on the Bill was posted on LegCo website on 18 May 2020, and letters were sent to DCs on 20 May 2020.)

III Any other business

Date of next meeting

7. Members agreed that the next meeting would be held on 26 May 2020 at 8:30 am.

8. There being no other business, the meeting ended at 10:17 am.

Council Business Division 1
Legislative Council Secretariat
5 August 2020

**Proceedings of the first meeting of the
Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2019
on Monday, 18 May 2020, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Election of Chairman (and Deputy Chairman)			
000355 – 000553	Mr Abraham SHEK Mr WONG Ting-kwong Mr CHAN Chun-ying Mr Christopher CHEUNG	Election of Chairman and Deputy Chairman	
Agenda item II — Meeting with the Administration			
000554 – 001932	Chairman Administration	Briefing by the Administration on the Mandatory Provident Fund Schemes (Amendment) Bill 2019 ("the Bill") which sought to amend the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") and its subsidiary legislation to: (a) empower the Mandatory Provident Fund Schemes Authority ("MPFA") to establish a wholly owned subsidiary to facilitate the performance of its functions including the development and operation of a common electronic platform ("eMPF Platform"); and (b) revise the amount of annual registration fee ("ARF") payable to MPFA by the approved trustee of a registered Mandatory Provident Fund ("MPF") scheme. <i>(Post-meeting note: The powerpoint presentation materials (LC Paper No. CB(1)645/19-20(01)) were issued to members vide Lotus Notes e-mail on 18 May 2020.)</i>	
001933 – 002130	Chairman Assistant Legal Adviser 10 ("ALA10") Administration	Members agreed that the Bills Committee would consider the issues raised by ALA10 in her letter dated 13 May 2020 to the Administration when the Committee received the Administration's written response.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>In response to ALA10's enquiry, the Administration confirmed that it would provide proposed amendments to the Bill in due course.</p>	
<p>002131 – 011851</p>	<p>Chairman Mr WONG Ting-kwong Mr Abraham SHEK Mr LUK Chung-hung Mr Paul TSE Administration</p>	<p>Declaration of interest by Mr WONG, Mr SHEK and Mr TSE.</p> <p>Mr SHEK and Mr LUK expressed support for the Bill.</p> <p><u>The annual registration fee payable by approved trustees</u></p> <p>Mr WONG's enquiries about:</p> <p>(a) how the proposed ARF level (i.e. 0.03% of the net asset value ("NAV") of an MPF scheme) was determined, and whether the level would be increased in the future given that according to MPFA the proposed level could only cover about 50% of its costs with respect to registered MPF schemes in 2018-2019; and</p> <p>(b) whether the proposed ARF level was on the low side given that the general public had the perception that the fund industry and MPF trustees had been reaping great benefits from the MPF System.</p> <p>Mr SHEK's enquiry as why MPFA would only revise the ARF level after six years of its implementation, and whether there would be contingency measures if the ARF level was found insufficient to cover MPFA's costs for its functions with respect to registered schemes.</p> <p>The Administration responded that:</p> <p>(a) having considered the proposal on prohibiting MPF trustees from passing on the cost of ARF to MPF scheme members, the Administration suggested adopting an incremental approach by</p>	

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		<p>starting with a lower level of 0.03% of the NAV of a scheme for the first six years to allow room for trustees to adjust to the new expenses;</p> <p>(b) as it was projected that MPFA's Capital Grant would be fully depleted by 2024-2025, the Administration would revise the ARF level from the seventh year with a view to enabling MPFA to achieve full cost recovery; and</p> <p>(c) given that the aggregate NAV of registered MPF schemes was growing, it was possible that MPFA might not need to increase the ARF level significantly after the review. The level might even be adjusted downward in the long run.</p> <p>Mr TSE's enquiry as whether the public funding of some \$3.9 billion for developing the eMPF Platform had been taken into account in determining the ARF level.</p> <p>The Administration responded that the eMPF Platform would be separately financed by public funding in the initial years and by charging MPF trustees for using the eMPF Platform on a cost-recovery basis. The development cost for the eMPF Platform was irrelevant in determining the proposed ARF level.</p> <p><u>Resources management of the Mandatory Provident Fund Schemes Authority</u></p> <p>Mr WONG's enquiry about measures taken by the Administration and MPFA to enhance MPFA's resources management, in particular to reduce MPFA's rental expenditure (which was one of MPFA's major expenditure item) including whether MPFA would consider purchasing its own office premises.</p>	

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		<p>Mr TSE's enquiry about the reasons for MPFA not charging trustees any ARF for nearly 20 years, and his views that MPFA should formulate long-term strategies to enhance its resources management.</p> <p>The Administration and MPFA responded as follows:</p> <p>(a) MPFA was a statutory body and had been self-financing since its inception in 1998. Due to various reasons, MPFA had not collected ARF from MPF trustees for the past 19 years, and it had been making use of the investment income from the Capital Grant of \$5 billion provided by the Government in 1998 to meet its operation;</p> <p>(b) MPFA had taken measures to reduce its rental costs including relocating its office from central business district to Kwai Chung in 2016. As MPFA did not yet have a stable source of income at the moment, it would not consider purchasing office premises for the time being; and</p> <p>(c) the Administration attached great importance to ensuring that MPFA had adequate financial resources for discharging its various duties to fulfill its statutory obligations. The ARF would provide MPFA with a stable source of income.</p> <p><u>Review of the Mandatory Provident Fund System</u></p> <p>Mr SHEK expressed the following views:</p> <p>(a) the Administration should conduct a comprehensive review of MPFSO to address various issues and concerns of the MPF System raised by the general public (e.g. high management fees and poor investment performance of MPF</p>	

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		<p>funds). It should also provide MPFA with sufficient resources to reform the MPF System as necessary; and</p> <p>(b) MPFA should step up its regulation on MPF trustees to allay concern of the public that MPFA was inclined towards protecting trustees' interests.</p> <p>Mr TSE expressed the following views:</p> <p>(a) the fund industry and MPF trustees were reaping great benefits from the MPF System. The management fees of many MPF funds were still on the high side and many MPF funds suffered from huge investment losses in 2020; and</p> <p>(b) the Administration should examine the feasibility of allowing MPF scheme members to invest their contributions in the Tracker Fund (which had a much lower level of management fee).</p> <p>Mr WONG enquired whether the Administration would consider entrusting the Hong Kong Monetary Authority to operate MPF funds so as to further reduce their management fees.</p> <p>The Chairman's views and enquiries as follows:</p> <p>(a) the investment performance of many MPF funds was unsatisfactory. The Administration and MPFA should explore measures to attract new MPF trustees (particularly trustees formed by local financial institutions) to enter the market; and</p> <p>(b) whether the Administration would consider linking the level of management fees of MPF funds with their investment performance.</p>	

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		<p>The Administration and MPFA responded as follows:</p> <ul style="list-style-type: none"><li data-bbox="624 383 1187 674">(a) after the current legislative exercise, the Administration and MPFA would conduct a comprehensive review of MPFSO to enable the implementation of the eMPF Platform, and planned to brief the Panel on Financial Affairs on the detailed proposals in late 2020 the earliest;<li data-bbox="624 712 1187 1227">(b) MPFA had taken a number of measures, such as introducing the Employee Choice Arrangement ("ECA") in 2012 and the Default Investment Strategy ("DIS") in 2017, to create more room and to enhance competition to reduce the management fees of MPF funds. It was envisaged that the implementation of the eMPF Platform would further reduce the administration cost of the MPF System and enhance competition, thus providing further room to lower management fees;<li data-bbox="624 1265 1187 1697">(c) the Administration and MPFA would continue to encourage new trustees to enter the MPF market. It was envisaged that the implementation of the eMPF Platform could lower the threshold for potential trustees to enter the MPF market as the Platform would handle many MPF scheme administration processes of trustees electronically, thus reducing the cost barrier for trustees in entering the market;<li data-bbox="624 1736 1187 2027">(d) it would be inappropriate to link the management fees of MPF funds with their investment performance as the latter was affected by a host of factors. MPFA would focus on measures (like ECA, DIS, and the requirement for MPF trustees to provide low-fee funds) to reduce the level of management fees	

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		<p>of MPF funds, thus enhancing the accrued benefits for scheme members. It was noted that currently 22% and 60% of the existing and new MPF accounts had opted for DIS respectively; and</p> <p>(e) the average annual investment return of MPF funds in the past 20 years was 4.1%, which was higher than the overall inflation rate of 1.9% in the same period.</p> <p><u>Benefits of the eMPF Platform</u></p> <p>Mr LUK expressed support to implement the eMPF Platform, and his enquiries about:</p> <p>(a) the interface between the launch of the eMPF Platform and the abolition of the arrangement of offsetting severance payments ("SP") and long service payments ("LSP") against MPF accrued benefits ("the offsetting arrangement"); and</p> <p>(b) whether the implementation of the eMPF Platform would expedite the introduction of "full portability" for MPF benefits(which could enhance benefits for scheme members by promoting competition among MPF trustees), and if so, the relevant implementation timetable.</p> <p>The Administration's responses as follows:</p> <p>(a) the abolition of the offsetting arrangement involved preparations at various fronts including establishing the proposed designated saving account ("DSA"), to which each employer would contribute 1% of his/her employees' monthly income so as to save up in advance to meet the employer's SP/LSP liabilities. The Administration would examine how</p>	

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		<p>the eMPF Platform could handle DSA; and</p> <p>(b) the implementation of the eMPF Platform would facilitate the introduction of "full portability" for MPF benefits. The eMPF Platform would facilitate the abolition of the offsetting arrangement, which was one of the pre-requisites for allowing "full portability" of MPF benefits.</p> <p>Mr TSE's enquiry about whether measures would be in place to ensure MPF scheme members could benefit from MPFA's estimated annual saving of some \$1.1 billion for 20 years arising from the launch of the eMPF Platform.</p> <p>The Administration explained that the implementation of the eMPF Platform could facilitate the standardization, streamlining and automation of MPF scheme administration processes, thus providing more room for reduction of the management fees of MPF funds, enhance the transparency of administration costs and management fees of various trustees. The Administration and MPFA would discuss with MPF trustees on how MPF scheme members could benefit from the anticipated savings of the eMPF Platform. The actual rate of fee reduction would hinge on the result of the tendering exercise for developing the eMPF Platform and the digital take-up rate of the Platform in the future.</p> <p><u>Early withdrawal of the accrued benefits under the Mandatory Provident Fund</u></p> <p>Mr TSE's enquiries about:</p> <p>(a) whether the Administration and MPFA would, as a relief measure to help the public cope with the difficulties arising from the outbreak of coronavirus disease-2019 ("COVID-19"), consider</p>	

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		<p>relaxing the criteria for early withdrawal of MPF accrued benefits as stipulated in sections 162 and 163 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) ("MPFR"); and</p> <p>(b) details of the existing arrangement for early withdrawal of MPF accrued benefits on ground of permanent departure from Hong Kong.</p> <p>The Administration and MPFA responded as follows:</p> <p>(a) the Administration had launched a number of relief measures including the Employment Support Scheme and the Cash Payout Scheme to help the public cope with the difficulties arising from COVID-19 outbreak. Any changes in the early withdrawal of MPF accrued benefits would require legislative amendments. This would take time and hence might not help the public in a timely manner;</p> <p>(b) the MPF System was a long-term retirement protection measure. This purpose would be undermined if MPF scheme members were allowed to withdraw their accrued benefits easily. Any change to the conditions on early withdrawal of MPF accrued benefits required prudent consideration; and</p> <p>(c) section 163 of MPFR provided that an MPF scheme member could, upon fulfilling relevant requirements, apply for early withdrawal of accrued benefits on ground of permanent departure from Hong Kong, and a scheme member could only make such early withdrawal of accrued benefits once. Under MPFSO, if the scheme member concerned subsequently returned to Hong Kong and became an employee or</p>	

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		self-employed person, he/she had to enrol in an MPF scheme again.	
011852 – 012043	Chairman Mr Paul TSE Mr WONG Ting-kwong	Invitation of views and date of next meeting	

Council Business Division 1
Legislative Council Secretariat
5 August 2020