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財經事務及庫務局
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香港添馬添美道二號
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FINANCIAL SERVICES BRANCH
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來函檔號 YOUR REF.: LS/B/26/18-19

21 May 2020

Ms Evelyn LEE
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(By Fax : 2877 5029)

Dear Ms Lee,

Mandatory Provident Fund Schemes (Amendment) Bill 2019

Thank you for your captioned letter dated 13 May 2020. I write to provide our response to the matters as set out in your letter.

Scope and explanation on immunity from civil liability provided under the Bill

2. The legislative amendments for the eMPF Platform Project will be taken in two phases. The first phase vide the captioned Bill is to empower the Mandatory Provident Fund Schemes Authority (“MPFA”) to establish a wholly owned subsidiary (“the eMPF Entity”) to facilitate the performance of MPFA’s functions. Hence, the immunity from civil liability is provided for the eMPF Entity, its directors and its employees

only in the performance of the statutory functions delegated to the eMPF Entity by MPFA. The relevant function is to “promote and encourage the development of the retirement scheme industry in Hong Kong” as stipulated in section 6E(1)(eb) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

3. The eMPF Entity will be set up and governed under the Companies Ordinance (Cap. 622) as a private company. Its future operations, such as the operation and implementation of the eMPF Platform, will be dealt with in the second phase legislative exercise. Preparation of the proposed relevant legislative amendments is underway.

Enforcement of the proposed new section 22C of Cap. 485

4. The auditor of Mandatory Provident Fund (“MPF”) schemes will scrutinise the relevant annual financial reports of registered trustees of the schemes to ensure that no unpermitted fee and expenses, including any fee related to the annual registration fee (“ARF”), will be deducted from scheme member’s assets. Meanwhile, MPFA will also conduct vetting diligently with a view to ensuring the reasonableness of any proposed new fee item or fee increase of MPF schemes and assess the reasonableness of fees charged to the MPF schemes based on the fees disclosed in offering documents when reviewing the financial reports of schemes.

5. In addition, the new financial penalty set out in the proposed item 4AA of Schedule 4 to the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A) will also create a deterrent effect to punish the trustee who passes on the annual registration fee to scheme members under the disguise of a different label. If there is evidence to prove that the trustee has failed to perform a duty or to comply with a requirement specified in section 22C of Cap. 485, the trustee is subject to a financial penalty of \$5,000 or 10% of the amount of the fee charged, whichever is the greater.

Cutting off date for the ARF

6. In view of the lapse of time, we will submit a committee stage amendment (“CSA”) (as provided separately) to revise the relevant cutting off date referred to in clause 13(2) of the Bill from 1 January 2020 to 1 October 2020.

Designating the eMPF Entity as a public body under the Prevention of Bribery Ordinance (Cap. 201)

7. As explained at the Bills Committee meeting held on 18 May 2020, given the substantial public funds to be involved in the eMPF Platform project, we suggest designating the eMPF Entity as a public body under Cap. 201. A CSA (as provided separately) will be moved accordingly.

Yours sincerely,



(Ms Joan HUNG)
for Secretary for Financial Services and the Treasury

c.c.

Clerk to Bills Committee (Fax: 3919 3104)

DoJ (By e-mail)

MPFA (By e-mail)