

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting on 24 September 2021**

**Report of the Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2021**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2021 ("the Bills Committee").

**Background**

2. The Mandatory Provident Fund ("MPF") System is a privately managed, mandatory and fully-funded contribution scheme established under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") for retirement savings for the workforce in Hong Kong. According to the Administration, as at July 2021, there were about 4.5 million scheme members enrolled into MPF schemes chosen by around 310 000 participating employers. The 13 approved trustees of the 27 MPF schemes administer some 10 million accounts of scheme members either in-house or through third-party administrators, involving 12 different administration platforms of different standards. The multiple business models, data standards, process designs and system infrastructure of the MPF System have made it difficult to achieve standardization and economies of scale. The MPF scheme administration is also characterized by a high volume of paper work, with nearly 20 million paper-based transactions every year.

3. Against the above backdrop, the Government has tasked the Mandatory Provident Fund Schemes Authority ("MPFA") to design, build and operate a common electronic platform, known as the eMPF Platform, to standardize, streamline and automate the administration processes of the MPF schemes. Following the completion of the first-stage legislative exercise in 2020 (i.e. the

Mandatory Provident Fund Schemes (Amendment) Bill 2019 which was passed by the Legislative Council ("LegCo") in July 2020), the eMPF Platform Company Limited ("the Company"), a wholly owned subsidiary of MPFA, has been established under section 6DA of MPFSO in March 2021 with the primary objectives to develop, build and operate the eMPF Platform. The Mandatory Provident Fund Schemes (Amendment) Bill 2021 ("the Bill") seeks to introduce the second-stage legislative amendments to MPFSO for the implementation of the eMPF Platform.

### **The Mandatory Provident Fund Schemes (Amendment) Bill 2021**

4. The Bill, which was gazetted on 9 July 2021 and received its First Reading at the LegCo meeting of 14 July 2021, seeks to amend MPFSO and its subsidiary legislation to:

- (a) provide for a common electronic system for administering and implementing MPF schemes registered under MPFSO;
- (b) provide for the appointment of deputy chairperson of MPFA; and
- (c) make related and technical amendments.

### Provisions of the Bill

5. The major provisions of the Bill are as follows:

#### *Part 2 - Amendments to MPFSO*

- (a) Clause 7 amends section 6E of MPFSO to empower MPFA to oversee the operation of the electronic system designated by the Secretary for Financial Services and the Treasury ("SFST") for use by trustees of MPF schemes and supervise the performance of a specified entity<sup>1</sup>, and to enhance public understanding of the features, objectives, operations and investment of registered schemes;
- (b) Clause 8 adds a new section 6EA to MPFSO to set out the functions of a specified entity;

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<sup>1</sup> Specified entity means (a) the Company; or (b) a wholly owned subsidiary established under section 6DA of MPFSO for the purpose of administering and operating an electronic system, and providing scheme administration services for approved trustees, for the purpose of the new Part 3B of MPFSO.

- (c) Clause 19 adds a new Part 3B to MPFSO for the implementation of the eMPF Platform. The new Part contains 26 sections. New Part 3B mainly provides for the following matters –
- (i) the power of the SFST to designate an electronic system administered and operated by a specified entity to be used by trustees of MPF schemes (new section 19I);
  - (ii) the power of MPFA to direct the system operator of the designated electronic system to suspend the system (new section 19J);
  - (iii) the general duties and powers of the system operator, including operating the designated electronic system in accordance with the Operating Rules ("OR") as approved by MPFA, ensuring the system is operated in a safe and efficient manner, and charging any fee for providing any service and facility in relation to the system (new sections 19K and 19L);
  - (iv) the mandatory use of the designated electronic system by the trustee of an MPF scheme, including the power of the SFST to specify by notice published in the Gazette a date from which the trustee of an existing scheme is required to use the system (new sections 19M and 19N);
  - (v) the duties of the trustee of an MPF scheme, including the duties to facilitate the proper and efficient implementation of the electronic system designated under new section 19I and notify certain persons of the notice published under new section 19N that relates to the scheme (new sections 19P and 19Q);
  - (vi) the power of the system operator to require trustees of MPF schemes to provide information reasonably required by the system operator for performing specified functions (new section 19R);
  - (vii) the duty of the system operator to maintain a register of members of registered schemes (new section 19S); and
  - (viii) the "straight pass-on" and "corresponding fee reduction" requirements on trustees (new sections 19T to 19ZE, and new Schedules 13 to 16 in clause 48);

- (d) Clause 33 amends section 41 of MPFSO. The existing section 41 deals with disclosure of information obtained under MPFSO. The amended section 41 would have the effect that a specified entity may exchange information obtained under MPFSO with trustees of MPF schemes and MPFA for the purposes of MPFSO;
- (e) Clause 34 adds new sections 41A and 41B to MPFSO to allow disclosure of information by certain persons (other than MPFA);
- (f) Clause 48 introduces a new Schedule 17 to MPFSO to provide for transitional arrangements required to be made as a result of certain amendments made to MPFSO;

*Part 3 - Amendments to the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) ("MPFSGR")*

- (g) Clauses 49 to 99 mainly introduce amendments to MPFSGR to (i) reflect the changes in the scheme administration workflow as a result of the launch of the eMPF Platform in areas such as removing the trustees' duties to check calculations of mandatory contributions (clause 70); and (ii) modify the requirements regarding transfer of accrued benefits (clause 79);
- (h) Clause 101 amends Schedule 4 to MPFSGR to provide for financial penalties in relation to certain provisions of MPFSO and MPFSGR; and
- (i) Clause 102 introduces a new Schedule 5 to MPFSGR to provide for transitional arrangements required to be made as a result of certain amendments made to MPFSGR.

Commencement

6. Except for the provisions mainly in connection with the specifications made under the proposed section 19N<sup>2</sup>, and the provisions mainly concerning establishing and maintaining certain registers as required by the Bill and

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<sup>2</sup> Those provisions are proposed sections 14, 15(2), 16 to 18, 20, 21, 23, 25, 40, 45, 48 (in so far as it relates to the proposed Schedule 17), 52, 55, 57(1) and (2), 59 to 61, 63, 64, 66, 67, 70 to 73, 77, 78, 80, 83, 87(2), 88(2) and (3), 92, 94, 96, 100, 101(2), (3), (4), (6), (7), (9) to (11), (13), (14), (17) and (20), and 102.

MPFSGR<sup>3</sup> which will come into operation on a day to be appointed by SFST by notice published in the Gazette, the Bill, if passed, would come into operation on the day on which the enacted Ordinance is published in the Gazette.

### **The Bills Committee**

7. At the House Committee meeting on 16 July 2021, Members agreed to form a Bills Committee to scrutinize the Bill. Hon WONG Ting-kwong was elected as Chairman of the Bills Committee. The membership list of the Bills Committee is in **Appendix I**. The Bills Committee has held three meetings with the Administration.

8. The Bills Committee has invited written views from the public on the Bill by posting a notice on the website of LegCo, but no submission was received. Separately, the Bills Committee has received two submissions from the Hong Kong Trustees' Association ("HKTA") [LC Paper Nos. CB(1)1175/20-21(01) and CB(1)1240/20-21(01)] on the views of the industry with respect to the Bill. At the request of the Bills Committee, the Administration has provided written responses [LC Paper Nos. CB(1)1213/20-21(03) and CB(1)1350/20-21(01)] to the submissions from HKTA.

### **Deliberations of the Bills Committee**

9. Members of the Bills Committee in general welcome the proposal to launch the eMPF Platform to enhance the efficiency of the MPF System. Mr CHAN Kin-por has relayed to the Bills Committee HKTA's support for the key objectives of the Bill as well as HKTA's major concerns on the implementation of the eMPF Platform. During the course of scrutiny, the Bills Committee has examined the oversight role of MPFA, fees of MPF schemes, Government's funding commitment to the eMPF Platform, migration of trustees to the eMPF Platform, other issues relating to operation of the eMPF Platform, as well as legal and drafting issues. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

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<sup>3</sup> Those provisions are proposed sections 19 (in so far as it relates to the proposed section 19S), 79, 84, 91, 93, 99 and 105.

## Oversight role of MPFA

10. Some members have enquired about the relationship between MPFA and the Company and whether the Company has independent authority to initiate investigation into suspected cases of non-compliance by trustees, or has to refer such cases to MPFA for investigation.

11. The Administration has advised that MPFA, as the holding entity and sole shareholder of the Company, will assume an oversight role over the Company. Given that the Company is a wholly owned subsidiary of MPFA and is the system operator of the eMPF Platform, MPFA's role over the Company would primarily focus on safeguarding system integrity and effective operation of the eMPF Platform, and ensuring that the Company takes timely remedial actions when major deficiencies are identified. Being a subsidiary to MPFA, the Company will have its own Articles of Association and corporate governance code setting out its public functions and powers, subject to the supervision of the Board of Directors with representatives from MPFA and the Government. The respective roles and responsibilities of MPFA, the Company and the trustees to enable and facilitate the proper and efficient operation of the eMPF Platform have been clearly delineated in the Bill and will be supplemented by OR in detail. The implementation of the eMPF Platform will not affect the existing relationship between MPFA as the regulator and the trustees as regulatees. The Company will function as a system operator and will not assume a regulatory role. Suspected cases of non-compliance identified by the Company will be referred to MPFA for consideration of follow-up or investigation.

### *"Safe harbour" provisions*

12. According to the Administration, trustees will still owe fiduciary duties to their scheme members, and remain legally responsible for the statutory requirements with respect to the administration of MPF schemes upon the implementation of the eMPF Platform. Non-compliance with those statutory requirements imposed on trustees will continue to attract regulatory sanctions or criminal liabilities. However, under the proposed "safe harbour" provisions, trustees will be entitled to a statutory defence and will not be subject to relevant financial penalty if trustees' non-compliance with the statutory requirements under MPFSO or MPFSGR is solely due to the failure of the system operator (i.e. the Company) to perform its duties. Some members have expressed concerns about the adjudicating authority in determining the proportionality of the liabilities of any non-compliance acts to be allocated between the system operator and the trustees, and have sought details on the types of possible offences for which trustees may be prosecuted.

13. The Administration has advised that the proposed "safe harbour" provisions under clauses 42, 43 and 97 of the Bill seek to provide (i) statutory defence for a trustee charged with certain offences; and (ii) certainty to trustees that financial penalty will not be imposed on a trustee if the trustee's non-compliance with the statutory requirements is only due to the failure of the system operator to perform the operator's duties. The inclusion of "safe harbour" provisions does not change the prevailing and well-established procedures of MPFA to ensure that each and every case of suspected non-compliance is investigated and evaluated thoroughly and impartially by MPFA.

14. The Administration has further explained that when assessing whether a non-compliance is substantiated and the extent of fault attributable to the trustee concerned, MPFA will take into account all relevant facts and circumstances, including but not limited to the root cause of the breach and the respective involvement of a trustee and the system operator. The trustee in question will be given adequate opportunities to make representations to give its account of the incident and raise any possible defence, where applicable. After assessing all available evidence and if satisfied that there is sufficient evidence to substantiate a non-compliance based on the relevant standard of proof, MPFA will determine the appropriate enforcement actions, namely financial penalty under section 45B of MPFSO or criminal prosecution, taking into account the principles of proportionality and reasonableness. The Administration has added that the Process Review Panel<sup>4</sup> in relation to the Regulation of MPF Intermediaries ("PRP") will be tasked, upon expansion of its terms of reference in the latter half of 2021 to cover other regulatory activities of MPFA in addition to regulation of MPF intermediaries, to review and advise MPFA on the adequacy and consistency of MPFA's internal procedures and guidelines governing the actions/decisions made by MPFA in performance of its regulatory functions.

### Fees of Mandatory Provident Fund schemes

#### *Reduction of fees*

15. According to the Administration, scheme members are expected to enjoy an average of about 30% reduction in the scheme administration fee payable if a 90% digital take-up rate can be achieved in five years after implementation of the eMPF Platform. Members have sought details on the measures to be taken

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<sup>4</sup> PRP is an independent panel established by the Chief Executive in November 2013. PRP is tasked to review and advise MPFA on the adequacy and consistency of its internal procedures and operational guidelines governing the actions taken and operational decisions made by MPFA and its staff in the performance of its regulatory functions relating to the regulation of MPF intermediaries and associated matters.

to ensure that a 90% digital take-up rate can be achieved and what implications it will have if the rate cannot be achieved in five years.

16. The Administration has explained that the responsibility for the contractor of the system operator to achieve a 90% digital take-up rate in five-year time after implementation of the eMPF Platform is stipulated in the tender documents and contract for the development and operation of the eMPF Platform. Failure of the contractor to achieve the 90% target take-up rate will be subject to contractual remedies and consequences. Under the tender documents and contract of the eMPF Platform, the contractor is under contractual obligations to take a multi-pronged approach to boost the digital take-up rate of the eMPF Platform, including enhancing promotion and technical support, introducing user-friendly interface and enhancement in functionality, and providing incentives for users to adopt digital means to use the eMPF Platform. The Administration, MPFA and the Company will closely monitor the digital adoption situation and implement suitable and timely measures to boost the take-up rate.

17. With scheme members being expected to enjoy an average of 30% cut in the scheme administration fee payable, some members have enquired whether there is room under the existing fee structure for reduction of other fees such as custodian fee, trustee fee, sponsor fee and investment management fee of MPF schemes after implementation of the eMPF Platform. The Administration has advised that the eMPF Platform is aimed at tackling the high administration costs of the MPF System, being one of the major concerns of the stakeholders. With standardization, streamlining and automation of the scheme administration work, the eMPF Platform is expected to bring down the administration fee of MPF funds. Compared to scheme administration fee, investment management fee tends to vary more widely among investment funds or products requiring different levels of investment management skills and involving different risks, etc. The Administration has added that following the introduction of the eMPF Platform, new trustees will no longer need to develop their own electronic administration system. This will reduce barriers to market entry and introduce more competition to the MPF market.

*Review of statutory fee caps on Default Investment Strategy constituent funds*

18. Noting that the Administration has previously undertaken to review the statutory fee caps on constituent funds<sup>5</sup> under the Default Investment Strategy

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<sup>5</sup> Introduced in April 2017, the DIS offers a default and low-fee investment solution for MPF scheme members who do not know how or do not want to choose MPF funds. Each MPF scheme is required to offer two constituent funds under the DIS, namely Core Accumulation Fund and Age 65 Plus Fund, which are subject to fee control of a management fee cap of 0.75% and an out-of-pocket expenses cap of 0.2%.



("DIS") three years after operation of the DIS (i.e. 2020), some members have enquired about the reasons for deferring the review of the statutory management fee cap of 0.75% per annum until full implementation of the eMPF Platform in around 2025 when all trustees and their schemes have migrated to the new eMPF Platform. Members believe that given the strong annual growth of the net asset value of constituent funds under DIS, there should have been tremendous cost savings and thus an early review of the statutory management fee cap is warranted.

19. The Administration has advised that the current legislative proposals relating to the eMPF Platform, including the requirements for "straight pass-on" of cost savings to scheme members and "corresponding reduction in the fund expense ratio", will be applicable to constituent funds under DIS. Scheme members, including those who have invested in DIS funds, are expected to enjoy an average 30% reduction in the administration fee portion of the fund expense ratio payable after implementation of the eMPF Platform. The Administration has added that when all MPF trustees and their schemes migrate to the eMPF Platform in around 2025, more detailed information on the degree of reduction in management fees of each constituent fund under DIS due to cost savings in scheme administration will be available to facilitate the Administration's review on the adjustment to the statutory management fee cap.

#### Government's funding commitment to the eMPF Platform

20. Noting that the Government has so far committed about \$4.9 billion non-recurrent capital to the development work of the eMPF Platform and the initial operation of the Company, members would like to know when the eMPF Platform will cease to require additional Government funding and begin to generate income, or even allow the Government to partially recoup its funding injection. The Administration has advised that it has no plan to recover the non-recurrent capital grant, thereby lowering the recurrent cost of operating the eMPF Platform for the benefit of scheme members. No further funding requirement is anticipated at this stage as the Company will operate on a cost-recovery and not-for-profit basis through charging fees on trustees for the scheme administration services it provided.

21. Given that the use of the eMPF Platform by trustees will become mandatory after the enactment of the proposed legislative amendments and will benefit the trustees by streamlining their workflow and cutting down paperwork, members are of the view that the \$210 million funding, out of the \$4.9 billion commitment stated in paragraph 20, to incentivize trustees' early boarding to the eMPF Platform (i.e. early-bird scheme) is a double benefit to trustees and have sought justification for the rationale behind. The Administration has advised that given the sheer number of accounts under the

trustees' management, the additional work and risks involved for the mega data migration process, and the financial implications to trustees for complying with the statutory requirements of fee control to ensure "straight pass-on" of cost savings by lowering the administration fee and the overall fee level of MPF funds upon trustees' use of the eMPF Platform, the funding provision of \$210 million to be allocated to those trustees who opt for early onboarding is considered appropriate to encourage trustees' early onboarding to the eMPF Platform voluntarily by meeting trustees' associated transition and risk management costs.

#### Migration of trustees to the eMPF Platform

22. The proposed sections 19M and 19N of MPFSO under clause 19 of the Bill provide for the mandatory use of the designated electronic system by the trustees, and empower SFST to specify a date on which the trustee of an existing MPF scheme is to begin to use the eMPF Platform to perform scheme administration functions with respect to the scheme, so as to allow for the orderly migration of trustees and schemes to the eMPF Platform on different dates. Given that some trustees might not be willing to migrate to the eMPF Platform early and charge their scheme members a lower administration fee, members would like to know the criteria used for determining the order of migration of trustees to the eMPF Platform, and the timetable of the eMPF onboarding process of trustees.

23. The Administration has advised that it will work out with MPFA and the Company on the criteria for determining the order of migration of trustees to the eMPF Platform, taking account of trustees' readiness for migration and operational risks, etc. Trustees in different forms and sizes may have different considerations as to their preferred timing to migrate to the eMPF Platform. The Administration and MPFA will work out with trustees the onboarding sequence and details of the early-bird scheme, with a view to firming up the transitional arrangement and implementation timetable of the eMPF Platform. Based on the current development plan, the Administration envisages that trustees will start phased migration to the eMPF Platform from 2023, and full onboarding is expected to complete around 2025 the earliest. The onboarding timetable will be formulated before 2023 to allow sufficient time to plan for the necessary data migration and onboarding arrangement. Mr CHAN Kin-por has expressed his view that the use of the eMPF Platform will involve high risk for early-bird trustees due to the uncertainty arising from the connection of their systems to the eMPF Platform; and trustees having a relatively large market share will be less willing to get onboard to the eMPF Platform early as it can mean an early fee cut, whereas small to medium trustees with a smaller customer base will be more interested to get onboard to the eMPF Platform

early, so as to benefit from the incentive funding whilst attracting more scheme members with lower fees.

### Other issues relating to operation of the eMPF Platform

#### *Consolidation of MPF accounts*

24. Given that there are now some 4.5 million scheme members enrolled into MPF schemes with a total of some 10 million accounts administered by 13 trustees, some members have enquired whether there is any room for incentivizing account consolidation by scheme members to streamline processes and reduce paperwork. They have suggested that MPFA should introduce measures to encourage scheme members to consolidate different personal accounts now without awaiting the launch of the eMPF Platform. The Administration has advised that MPFA has all along been encouraging scheme members to consolidate their personal accounts. With the "one-stop" management of MPF accounts upon implementation of the eMPF Platform, the future scheme administration processes will be centralized and automated, thereby facilitating and encouraging scheme members to manage and consolidate their MPF accounts electronically.

#### *Disclosure of personal account information to scheme members*

25. Highlighting the cumbersome procedure and difficulty for scheme members to make enquiries about details of their own personal accounts through MPFA, some members have enquired whether there is any existing legislation precluding the disclosure of information contained in a scheme member's own personal account to the scheme member by MPFA. The Administration has advised that MPF schemes are privately managed by MPF trustees and there is limitation in the current legislative framework preventing MPFA from accessing to or disclosing details of personal account information pertaining to a scheme member (including account number, account balance and investment portfolio) which is held by the trustee concerned to safeguard their personal data and privacy. However, with the implementation of the eMPF Platform, scheme members can view the information about all of their MPF accounts across different schemes and trustees at a glance anytime and anywhere on one single platform to facilitate them to manage and consolidate their own MPF accounts.

#### *Arrangement for offsetting severance payments and long service payments against MPF accrued benefits*

26. In response to members' enquiry on how the eMPF Platform can facilitate the abolition of the arrangement of offsetting severance payments and long

service payments against MPF accrued benefits ("the offsetting arrangement"), the Administration has advised that for the abolition of the offsetting arrangement, employers will be required to set up Designated Savings Accounts ("DSAs") under their own names to save up in advance so as to meet their potential liabilities for making severance and long service payments. With the implementation of the eMPF Platform, employers will be able to handle their DSA-related transactions via the eMPF Platform interface. As regards members' concerns about the system readiness of the eMPF Platform to handle the some 300 000 DSAs, the Administration has advised that the DSA employers should overlap with those participating employers of the MPF schemes under the existing MPF System and relevant system specifications for the DSAs have been incorporated into the tender documents and contract of the eMPF Platform for development. MPFA has been assisting the Administration to incorporate the DSA component into the eMPF Platform which will facilitate the abolition of the offsetting arrangement.

### *Role of trustees*

27. Noting that one of the main objectives of the eMPF Platform is to reduce the overall costs of the MPF System, a member enquired whether certain services of the trustees (and hence fees charged by trustees) can be dispensed with over time with the implementation of the eMPF Platform. The Administration has advised that the eMPF Platform is aimed to streamline, standardize and automate scheme administration work and thus reduce related costs of the MPF System. The eMPF Platform will not perform other functions currently taken up by trustees, including investment management, product design and other trustee services.

### Legal and drafting issues

#### *Supplementary functions of electronic MPF System*

28. Under proposed section 19I(1) of MPFSO (clause 19 of the Bill), SFST would be empowered by notice published in the Gazette to designate an electronic system administered and operated by a specified entity to provide services and facilities to facilitate the approved trustees of MPF schemes to perform their scheme administration functions and to perform any other functions specified in the proposed Schedule 12. Noting that no such other functions have so far been specified in the proposed Schedule 12, some members have raised concerns as to the type of functions that would be specified by SFST in the proposed Schedule 12 in future. The Administration has advised that the intention of the proposed new section 19I(1)(b) and Schedule 12 was to allow for flexibility such that the eMPF Platform might be conferred or assigned with new functions which might not otherwise fall within

the scope of "scheme administration functions" in the proposed section 19I(1)(a). Such other functions that might be specified in the proposed new Schedule 12 in future include (i) supporting the implementation of the DSAs for the abolition of the offsetting arrangement; and (ii) supporting the Government's initiative to pay 5% MPF contribution for low-income persons. The Administration has added that specification of new functions in the proposed new Schedule 12 in future would involve the making of subsidiary legislation which would be subject to a negative vetting process in LegCo.

#### *Duties of system operator and approved trustees*

29. The Administration has been asked to explain the security or other measures which would be employed by the system operator of eMPF Platform under the proposed section 19K(3) of MPFSO to protect the data (such as the personal data of MPF scheme members) processed by or stored in the electronic MPF System from being unlawfully accessed. Besides, as OR are not subsidiary legislation and a user does not incur criminal liability or financial penalty only because a user has failed to comply with OR, the Administration has been asked to explain whether a user would have to face any consequence for non-compliance with OR.

30. The Administration has advised that the system operator would be required to observe all relevant laws, regulations, guidelines, codes of practice and international standards concerning data privacy and security. In fact, the design and technical specifications of the eMPF Platform and the supporting data centres have made reference to the Government's policies and standards and international best practices on processing and storing confidential information. The Administration has also advised that in case where non-compliance with OR persists or an approved trustee continues to be uncooperative, the system operator may escalate the matter to MPFA. MPFA may require the trustee concerned to take necessary action through issuing written notice under the new section 19P of MPFSO. Failure to comply with MPFA's requirement could result in financial penalties under the proposed amendments to Schedule 4 of MPFSGR in clause 101 of the Bill.

### **Proposed amendments to the Bill**

#### *Amendments proposed by the Administration*

31. The Administration has proposed various technical, consequential and textual amendments to the Bill to better reflect the policy intent of the Bill and improve clarity of its provisions. A full set of the proposed amendments to be

moved by the Administration is in **Appendix II**. A summary table with explanation of the proposed amendments has also been provided by the Administration [LC Paper No. CB(1)1240/20-21(02)]. Members have no objection to the Administration's proposed amendments.

*Amendment proposed by individual member*

32. Mr LUK Chung-hung has submitted to the Bills Committee for consideration a proposed amendment to the new section 19S(3)(c) of MPFSO under clause 19 of the Bill (**Appendix III**) which seeks to include the latest fund expense ratio, the amount and percentage of annualized return, cumulative return, management fee and all other fees and charges in the particulars of each account established and maintained by each member under each specified scheme contained in the central register of the electronic MPF System. The Administration has indicated that it will take over Mr LUK's proposed amendment to the Bill as stated in its written response [LC Paper No. CB(1)1285/20-21(01)].

33. The Bills Committee will not propose any amendments to the Bill.

**Resumption of the Second Reading debate**

34. The Bills Committee supports the Administration's proposal to resume the Second Reading debate on the Bill at the Council meeting of 20 October 2021.

**Advice sought**

35. Members are invited to note the deliberations of the Bills Committee.

**Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2021**

**Membership List\***

<b>Chairman</b>	Hon WONG Ting-kwong, GBS, JP
<b>Members</b>	Hon Abraham SHEK Lai-him, GBS, JP Hon Starry LEE Wai-king, SBS, JP Hon CHAN Kin-por, GBS, JP Hon Paul TSE Wai-chun, JP Hon YIU Si-wing, SBS Hon LEUNG Che-cheung, SBS, MH, JP Hon Christopher CHEUNG Wah-fung, SBS, JP Dr Hon CHIANG Lai-wan, SBS, JP Hon CHUNG Kwok-pan Hon Jimmy NG Wing-ka, BBS, JP Hon CHAN Chun-ying, JP Hon LUK Chung-hung, JP
	(Total : 13 members)
<b>Clerk</b>	Mr Boris LAM
<b>Legal Adviser</b>	Mr Alvin CHUI

\* Changes in membership are shown in **Annex to Appendix I**.

**Bills Committee on  
Mandatory Provident Fund Schemes (Amendment) Bill 2021**

**Changes in membership**

<b>Member</b>	<b>Relevant date</b>
Dr Hon CHENG Chung-tai	Up to 25 August 2021

According to the announcement made by the Hong Kong Special Administrative Region Government on 26 August 2021 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, CHENG Chung-tai was disqualified from being a member of the Legislative Council on 26 August 2021.



Mandatory Provident Fund Schemes (Amendment) Bill 2021

Committee Stage

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

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)(a)	By adding “64A,” after “64,”.
19	<p>By deleting the proposed section 19P(2) and (3) and substituting—</p> <p>“(2) The Authority may, by written notice given to an approved trustee of a registered scheme—</p> <ul style="list-style-type: none"><li>(a) require the approved trustee to take any action the Authority considers necessary for any of the purposes mentioned in subsection (1);</li><li>(b) require the approved trustee to do either or both of the following—<ul style="list-style-type: none"><li>(i) to take any action the Authority considers necessary for ensuring compliance by the approved trustee with section 19M;</li><li>(ii) to comply with section 19M; and</li></ul></li><li>(c) if the system operator of an electronic MPF system has given the approved trustee a notice under section 19R(1), require the approved trustee to do either or both of the following—<ul style="list-style-type: none"><li>(i) to take any action the Authority considers necessary for ensuring compliance by the approved trustee with section 19R(3);</li><li>(ii) to comply with section 19R(3).</li></ul></li></ul> <p>(3) An approved trustee of a registered scheme must—</p> <ul style="list-style-type: none"><li>(a) take—<ul style="list-style-type: none"><li>(i) actions that are reasonably required for any of the purposes mentioned in subsection (1); and</li><li>(ii) other actions required by the Authority under subsection (2)(a);</li></ul></li></ul>

- (b) comply with the requirements imposed on the approved trustee under subsection (2)(b); and
- (c) comply with the requirements imposed on the approved trustee under subsection (2)(c).”.

19 In the proposed section 19ZE, in the English text, in the heading, by deleting “**section**” and substituting “**sections**”.

34 In the proposed section 41B, by adding—

“(6) A person who uses or discloses any information in contravention of subsection (5) commits an offence and is liable on conviction to a fine at level 4.”.

New By adding—

**“64A. Section 119 amended (definitions)**

Section 119—

**Repeal the definition of *defaulter*.”.**

72 In the Chinese text, by deleting subclause (1) and substituting—

“(1) 第 136 條，標題 ——  
廢除  
在“局須”之後的所有字句  
代以  
“向欠款人給予通知”。”.

72(2) (a) By adding “serve on the defaulter” after “an approved trustee,”.

(b) By deleting everything after “of it), or” and substituting “any amount of a contribution surcharge liable to be paid by the employer or person under section 18(2) of the Ordinance, (*outstanding sum*) the Authority must as soon as practicable serve on the person (*defaulter*)”.”.

72 By adding—

“(2A) Section 136(1)(a)—

**Repeal**

“arrears and the contribution surcharge payable on the arrears”

**Substitute**

“outstanding sum”.

(2B) Section 136(1)—

**Repeal paragraph (b)**

**Substitute**

“(b) (regardless of whether the outstanding sum relates only to a contribution surcharge liable to be paid by the defaulter) to give to the Authority an explanation with respect to the failure to pay the arrears;”.

(2C) Section 136(1)(d)—

**Repeal**

everything after “paying”

**Substitute**

“the outstanding sum, a remittance statement.”.

72(4)

(a) By adding “are” after “subsection (1)”.

(b) By adding “are as follows” after “subsection (1AA)”.

72

By deleting subclause (5) and substituting—

“(5) Section 136(1A)(a) and (b), Chinese text—

**Repeal**

“拖欠供”

**Substitute**

“欠”.

(6) Section 136(1A)—

**Repeal paragraphs (c), (d) and (e).**

(7) Section 136—

**Repeal subsection (2).**

(8) Section 136(3)—

**Repeal**

“is in default”

**Substitute**

“has failed to pay the arrears”.

(9) Section 136—

**Repeal subsections (4), (5), (6) and (9).**

(10) Section 136(10), Chinese text—

**Repeal**

“拖欠供款人必須遵守根據本條向他”

**Substitute**

“欠款人須遵守根據本條向其”。

101(5) In the proposed item 2H—

- (a) by deleting “2H 19P(2)” and substituting “2H 19P(3)(a)”;
- (b) by deleting “Approved trustee to take actions required under section 19P(2)” and substituting “Approved trustee to take actions under section 19P(3)(a)”;
- (c) by deleting “fails to take actions required under section 19P(2)” and substituting “fails to comply with section 19P(3)(a)”.

101(5) By adding—

“2HA 19P(3)(b) Approved trustee to comply with requirements imposed under section 19P(2)(b) of the Ordinance	If approved trustee fails to comply with section 19P(3)(b) of the Ordinance— <ul style="list-style-type: none"><li>(a) for the first occasion on which the trustee fails to do so—a daily penalty of \$10,000 for each day on which the failure continues;</li><li>(b) for the second occasion on which the trustee fails to do so—a daily penalty of \$20,000 for each day on which the failure continues; and</li></ul>
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- (c) for the third or subsequent occasion on which the trustee fails to do so—a daily penalty of \$50,000 for each day on which the failure continues
- 2HB 19P(3)(c) Approved trustee to comply with requirements imposed under section 19P(2)(c) of the Ordinance
- If approved trustee fails to comply with section 19P(3)(c) of the Ordinance—
- (a) for the first occasion on which the trustee fails to do so—a daily penalty of \$10,000 for each day on which the failure continues;
- (b) for the second occasion on which the trustee fails to do so—a daily penalty of \$20,000 for each day on which the failure continues; and
- (c) for the third or subsequent occasion on which the trustee fails to do so—a daily penalty of \$50,000 for each day on which the failure continues”.

- 102 In the proposed Schedule 5, in section 16(1), by deleting “section 72 of the 2021 Amendment Ordinance (***amendment provision***), section 136 as in force immediately before the commencement date applies” and substituting “sections 64A and 72 of the 2021 Amendment Ordinance (***amendment provisions***), sections 119 and 136 as in force immediately before the commencement date apply”.
- 102 In the proposed Schedule 5, in the English text, in section 16(4), in the definition of ***commencement date***, by deleting “provision comes” and substituting “provisions come”.
- 102 In the proposed Schedule 5, in section 17(1), by deleting “section 73 of the 2021 Amendment Ordinance (***amendment provision***), section 137 as in force immediately before the commencement date (***pre-amended section 137***) applies” and substituting “sections 64A and 73 of the 2021 Amendment Ordinance (***amendment provisions***), sections 119 and 137 as in force immediately before the commencement date (***pre-amended provisions***) apply”.
- 102 In the proposed Schedule 5, in section 17(2), by deleting “section 137 applies” and substituting “provisions apply”.
- 102 In the proposed Schedule 5, in the English text, in section 17(3), in the definition of ***commencement date***, by deleting “provision comes” and substituting “provisions come”.
- 102 In the proposed Schedule 5, in the English text, in section 20(2), by deleting “date applies” and substituting “date apply”.
- 102 In the proposed Schedule 5, in the English text, in section 30(3), in the definition of ***relevant provision***, in paragraph (b), by deleting “Schedule.” and substituting “Schedule.”.
- 104 In the proposed section 78B(3), by deleting “fails to comply with” and substituting “uses or discloses any information in contravention of”.

**Proposed amendment submitted by Hon LUK Chung-hung  
to the Bills Committee on Mandatory Provident Fund Schemes  
(Amendment) Bill 2021 for consideration**

Mandatory Provident Fund Schemes (Amendment) Bill 2021

**COMMITTEE STAGE**

Amendments to be moved by Hon Luk Chung-Hung

<u>Clause</u>	<u>Amendment Proposed</u>
19S	<p>In the proposed section (3) (c), after “the particulars” —</p> <p>Add</p> <p>“, which must include the latest FER, the amount and percentage of annualized return, cumulative return, management fee and all other fees and charges,”.</p>