

Date: 31 December 2020  
To: Hon Mr. Jeffery Lam Kin-fung GBS, JP  
Chairman of the Panel of Financial Affairs  
From: CEOs of 14 MPF Trustees\*  
Subject: Industry concerns on the Proposals relating to eMPF Platform Project

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The industry, representing all 14 approved trustees of the MPF schemes and the respective scheme sponsors, hereby makes a submission to the Panel of Financial Affairs of the Legislative Council.

We refer to paper addressed to the FA Panel regarding the Detailed Proposals for Taking Forward the eMPF Platform Project and Related Matters for discussion on 4th January 2021 (the “LegCo Paper”). The industry wants to share the views and key concerns on eMPF Platform (the “Platform”) relating to the fee charging model, the scope of scheme administration work to be taking up by the Platform, the base used to calculate potential savings which potentially could be overstated, and the immunity and liability of the eMPF Platform.

**1. Current disclosure requirements on fee breakdown: bundling vs separation approach**

The disclosure requirements relating to fee breakdown disclosed in principal brochures of MPF schemes (“disclosure requirements”) came into effect at the end of 2018. In catering for various operating structures of different schemes, the disclosure requirements accept:

- (a) a single fee item bundling fees to trustee, custodian and/or administrator; or
- (b) a separate fee item to each or a combination of the trustee, custodian and/or administrator.

Currently, all MPF schemes disclose fees in either (a) or (b) as described above.

In any event, the fee to administrator (“**administration fee**”) disclosed in principal brochures generally covers both “**fund administration fee**” and “**scheme administration fee**”, and only the latter is relevant to the eMPF Platform. In relation to scheme administration fee, even if it is a separate fee item as described under (b) above, the functions the administrator is performing and included in such a fee are different from the scheme administration functions to be taken up by the Platform.

Of equal importance is the key issue that the scheme administration functions to be taken by the Platform **do not include all the SA functions** currently provided by the industry to employers and members – not only that there are already “gaps” in the delivery of the “**core**” SA functions, that are also a list of “**other core**” SA functions that the industry has identified and communicated on various occasions with the last formal communication on the various key concerns to the FSTB/MPFA via a letter issued by Baker & McKenzie on behalf of the 14 trustees and respective scheme sponsors on 16 December 2020. From the industry’s perspective and in alignment with one of the key original objectives of eMPF, the **Platform**

**should take up all the scheme administrations** (that are being provided to all members of the MPF system) in order to be an effective e-solution for all stakeholders in the system.

2. **The misconception of 58bps may lead to overstated potential savings**

Although there is no disclosure requirement to further breakdown what “scheme administration fee” (“SA fee”) includes, the industry volunteers to provide directly to the MPFA before end December 2020 the following data in order for the Government/MPFA to get a clear picture of the level of the **total scheme administration fee**:

- (a) the **core** scheme administration fee (for the e-MPF project, only plain vanilla standard service will be provided by the Platform);
- (b) the approximate fee rate for the **other core** SA functions (based on our current understanding, these functions will not be provided by the Platform).

Referring to Annex B of the LegCo paper, the estimation of possible cost saving of the Platform was derived based on **58bp** (the average of the current industry’s SA fees) as a starting point. However, this assumption **does not reflect the correct level** of scheme administration fees currently charged in respect of MPF schemes and as a result, the potential saving guesstimates (e.g. projected savings of \$30-40 billion in 10 years) presented to the FA Panel could also be overstated.

Moreover, it is important to note that the service from the Platform will be **plain vanilla standard** services (even if one assumes that the Government/MPFA could manage to get the appointed contractor to take up all the scheme administration functions), the cost savings would also come at the **expense of stakeholders** especially employers and members because of reduced or eliminated client service/overall experience. Putting the focus on savings/fee reduction **alone** would not be in the ultimate best interest of scheme members in the long run.

3. **Immunity and liability of the Platform**

When the concept of the Platform was first introduced to the LegCo for funding (which should cover the budget for migration costs that is to be made available to trustees prior to onboarding to the platform), as scheme administration activities would be taken up by the Platform, Trustees expected that they would be exonerated from the statutory responsibilities of the administrative activities no longer carried out by them after the transition. [Note: The serious concerns Trustees and scheme sponsors have on the scope of liability and limitation have been raised and discussed on various occasions with the FSTB and MPFA over the past two years and formally raised again through the aforementioned Baker & McKenzie letter dated 16 November 2020.] However:

- The Paper to the FA Panel makes no reference to the views already expressed repeatedly by the industry to the effect that the safeguards set out in para 19(a) and (b) of the LegCo Paper is inadequate. More particularly, Trustees would be mandated by law to use Platform’s service and yet the current legislative intent is that Trustees would be subject to civil liabilities arising out from the Platform’s administration and will remain legally responsible for the administration of MPF scheme. Despite it is proposed that the MPFA would not prosecute Trustees for any non-compliance with

statutory requirements under the MPFS Ordinance due to the Platform's **sole** failure (the industry also queried why not partial or other failure?) and Trustees are not prohibited from seeking remediation from the Platform for any civil liabilities attributable to the Platform, Trustees strongly request that **any liabilities arising out from the scheme administration roles and responsibilities to be taken up by the Platform be carved out from that of the Trustees.**

- The LegCo Paper describes the role of the eMPF Company as to “facilitate the Trustees’ performance of scheme admin functions”. If the Platform is not acting as an agent of the Trustees (and the Trustees will not be given the right to monitor the Platform or the power to intervene the Platform’s operation), such a description is not appropriate -- maybe “to take up scheme administration roles of the Trustees” would be more appropriate and accurate.

4. **Effective collaboration of FSTB/MPFA and the industry is pivotal to eMPF’s success**

While the industry continues to be very supportive of the eMPF project, there are various unsettled/ unclear key issues which must be resolved (as clearly outlined in the information provided by the industry). It is crucial that the FSTB and the MPFA work closely with the industry to address these and other outstanding issues as soon as possible. It is unlikely that the project can be completed on time and with risks appropriately contained without industry’s commitment and full support.

The MPF trustees and scheme sponsors would be grateful for the Panel to consider these continuing concerns raised by the industry and ask the Government and the MPFA to work with the industry in reaching an outcome that provides a win-win solution. We also want to make the eMPF project a success too but this must be done on a **fair, reasonable and transparent basis** as we are also key stakeholders in the system in the delivery of the best possible retirement solutions and services to the people in Hong Kong.

Thank you for your kind attention. **May we take this opportunity to wish you all a very Happy and Healthy 2021!**

**\* 14 MPF Trustees**

1. AIA Company (Trustee) Limited
2. Bank of Communications Trustee Limited
3. Bank Consortium Trust Company Limited
4. Bank of East Asia (Trustees) Limited
5. BOCI-Prudential Trustee Limited
6. China Life Trustees Limited
7. HSBC Institutional Trust Services (Asia) Limited
8. HSBC Provident Fund Trustee (Hong Kong) Limited
9. Manulife Provident Funds Trust Company Limited
10. Principal Trust Company (Asia) Limited
11. RBC Investor Services Trust Hong Kong Limited
12. Sun Life Pension Trust Limited
13. Sun Life Trustee Company Limited
14. YF Life Trustees Limited