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For discussion on
19 January 2021

Legislative Council Panel on Manpower

Funding for Building Designated Savings Accounts Functionalities on the eMPF Platform and Developing the Designated Savings Accounts Information Technology System

Introduction

To assist employers to meet the potential severance payment ("SP") and long service payment ("LSP") liabilities after the abolition of the arrangement of using the accrued benefits attributable to employers' mandatory contributions under the Mandatory Provident Fund ("MPF") System to "offset" the SP and LSP (here below referred to as the "offsetting" arrangement), the Government will implement the employers' Designated Savings Account ("DSA") Scheme[1]. This paper explains to Members the funding proposal for building DSA functionalities on the eMPF Platform[2] of the Mandatory Provident Fund Schemes Authority ("MPFA"), and the development and management of the DSA Information Technology ("IT") System ("DSA System") in the Labour Department ("LD").

Background

2. The Chief Executive ("CE") announced in the 2018 Policy Address the enhanced arrangements for abolishing the "offsetting" arrangement. Apart from providing a 25-year subsidy to share employers' expenses on SP and LSP after the abolition of the "offsetting" arrangement, the Government will also assist employers to set up DSAs under their own names to save up in advance to

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[1] Under the DSA Scheme, unless exempted, each employer will be required to make contribution equivalent to 1% of the monthly relevant income of his/her employees to his/her DSA after the abolition of the "offsetting" arrangement. The mandatory contributions in the DSA can only be withdrawn for the purpose of paying SP/LSP.

[2] The eMPF Platform is a common electronic platform which seeks to standardise, streamline and automate the administration processes of the MPF System to improve the accuracy and operational efficiency of MPF schemes, thereby making room for fee reduction for the benefit of scheme members and creating a predominantly paperless MPF experience.

meet the potential SP and LSP expenses with a view to alleviating their financial pressure when such payment arises.

3. The Government is working at full steam in taking forward the preparatory work for abolishing the "offsetting" arrangement, including drafting the bills for abolishing the "offsetting" arrangement and implementing the DSA Scheme, and formulating the related operational arrangements and details. The Government plans to introduce the bills into the Legislative Council ("LegCo") in the next legislative year, and to implement the abolition of "offsetting" arrangement after the passage of the bills by LegCo and in tandem with the full implementation of the eMPF Platform.

Justifications

Building functionalities on the eMPF Platform to support the DSA Scheme

4. In order to assist employers to set up their DSAs, the Government needs to collect regularly contributions from over 300 000 employers[3] to their DSAs, and disburse monies in their DSAs to them when the need to pay SP/LSP arises. The Government plans to ride on the eMPF Platform to be built by MPFA to collect employers' contributions and disburse DSA monies to them in order to achieve better cost-effectiveness.

5. MPFA made a conditional award to the successful tenderer at end-December last year and will enter into a formal contract to build and operate the eMPF Platform with the successful tenderer early this year to kick-start the hardware and software development for the eMPF Platform. MPFA's targets are to complete the development of the eMPF Platform by the end of 2022 at the earliest, and then to migrate the data from the operation systems of the 14 MPF trustees to the eMPF Platform in batches with a view to achieving the full implementation of the Platform in around 2025 at the earliest.

6. The Government has reached a consensus with MPFA on the DSA functionalities and services to be provided on the eMPF Platform for collecting

[3] According to the statistics kept by MPFA, the number of employers enrolled in the MPF schemes was around 306 300 as at end-November 2020.

employers' contributions and disbursing DSA monies, and the relevant specifications have been incorporated into the tender documents and the contract for the eMPF Platform. LD will work closely with MPFA as well as its contractor in developing the functionalities on the eMPF Platform to support the DSA Scheme. The Platform, which will serve as the front-end portal for employers, will be connected to LD's back-end DSA System (with details set out in paragraph 7 below). Employers will be able to perform the following activities on the front-end portal of the eMPF Platform –

(a) setting up and closing their DSAs: After employers submit the necessary information for setting up DSA (e.g. name of the company and the responsible person, registered and business addresses, etc.) or closing DSA (e.g. reason(s) for closure), the eMPF Platform will conduct preliminary verification and transmit the data to the DSA System for vetting and approval;

(b) calculating the amount of contribution: After employers submit the contribution data, including the wage amount and wage period of employees engaged in the contribution period, the eMPF Platform will calculate employers' contribution amount based on the information provided and issue the payment bills to the employers. If an employer fails to make contribution within the contribution timeframe, the eMPF Platform will issue a reminder to the employer;

(c) submitting withdrawal requests: After employers submit the necessary information (e.g. the termination date of the employment contract of dismissed employees, and the amount of SP/LSP payable, etc.) for their withdrawal requests, the eMPF Platform will conduct preliminary verification and transmit the information to the DSA System for vetting and approval;

(d) checking DSA balance: Employers can check their DSA balance maintained in the DSA System via the eMPF Platform; and

(e) receiving DSA statements: DSA statements will be generated by the DSA System and issued to employers via the eMPF Platform.

Developing and managing the DSA System

7. To implement the DSA Scheme, apart from building the related functionalities on the eMPF Platform, LD needs to develop and manage a separate back-end DSA System for connecting to the front-end portal of the eMPF Platform. The DSA System will process the information provided by employers for setting up and closing DSAs, making contributions, withdrawing DSA monies, etc., via the eMPF Platform to support the day-to-day administration of the DSA Scheme. LD proposes that the development, daily management and maintenance of the DSA System, as well as the day-to-day administration of the DSA Scheme be outsourced to an agent in the private sector to achieve better cost-effectiveness. The scope of work of the outsourced agent will include –

(a) developing, operating and maintaining a back-end computer system to support and automate the following work processes of DSA –

(i) managing individual DSAs: Setting up and closing DSAs, recording contributions and withdrawals, conducting payment reconciliation with the eMPF Platform and banks, updating account balance, identifying abnormal transactions, generating DSA statements, etc.;

(ii) computing the share of investment returns/administrative costs amongst individual DSAs;

(iii) maintaining operation of the interfaces with the eMPF Platform, banks and other related IT systems to perform real-time or scheduled data transmission; and properly managing the information and documents stored in the system to ensure their security and integrity for supporting the operation of the DSA Scheme and related enforcement work; and

(iv) generating management statistical reports and providing statistical analysis and reports on applications received and processed, and other follow-up actions for monitoring the implementation of the DSA Scheme;

(b) providing account management services, including taking follow-up actions on irregularities such as employers failing to set up DSAs or making contributions within the specified timeframe, and payment reconciliation errors;

(c) handling employers' applications, including –

   (i) vetting and approving applications for withdrawing DSA monies and closing DSAs (i.e. checking information of each application, clarifying details with employers, screening out ineligible applications, verifying the amount to be withdrawn/account balance, etc. by vetting officers; and reviewing and approving payment/account closure, or refusal recommendation by approving officers);

   (ii) obtaining further information and documents from employees or other relevant parties to verify the eligibility for application to prevent abuse;

   (iii) notifying employers of the vetting results via the eMPF Platform; and

   (iv) handling review/appeal cases;

(d) conducting necessary follow-up actions in respect of individual DSAs, such as issuing payment bills to employers;

(e) handling enquiries and complaints lodged by employers, and conducting investigation and submitting reports on individual complaints to LD;

(f) reporting suspected cases of non-compliance to LD and assisting LD in taking enforcement actions where necessary; and

(g) submitting regular and ad hoc management reports to LD, and providing statistical analysis and reports on applications received and processed as required by LD.

8. Since the DSA Scheme is to assist employers to save up in advance to meet their potential SP/LSP payout, the expenses of the DSA Scheme should be borne by the employers as a matter of principle. That said, to assist employers to accumulate their DSA balance in the initial years after the abolition of the "offsetting" arrangement, we suggest the Government to provide financial support for the building of the DSA functionalities on the eMPF Platform and the development of the DSA System. Besides, we also propose the Government to bear the daily operating expenses of the DSA Scheme in the first five years of operation. From the sixth year onwards, the recurrent operating expenses of the daily operation of the DSA Scheme will be recouped from the DSA employers on a cost recovery basis.

Anticipated benefits

9. Riding on the eMPF Platform and commissioning of an outsourced agent to administer the DSA System will facilitate the implementation of the DSA Scheme and enhance the operation efficiency of the related work in the following aspects. The envisaged major benefits are as below –

(a) Facilitating employers to handle MPF and DSA matters on one single platform

By handling both MPF and DSA matters on one single platform, employers will not need to get acquainted with and adapt to two different sets of administrative procedures and user interfaces, thereby simplifying the work relating to the management of DSAs. In particular, employers can avoid duplication of work and achieve data consistency by submitting employees' income data via the same platform for calculating the amount of MPF and DSA contributions.

For employers and human resources management practitioners, online transaction, standardised administrative procedures and automation can reduce paper work, human errors as well as inadvertent delay and default on making contributions. In general, the use of eMPF Platform (with the back-end support of the DSA System) will help employers save their time and efforts. Simple and user-friendly administrative procedures can also further boost the digital take-up rate of employers, which will in turn enhance the cost-effectiveness of the eMPF Platform and the DSA System in the long run.

(b) Speeding up the processing of employers' applications and disbursement of payments

Employers may withdraw their DSA monies for paying SP/LSP. Handling the relevant applications involves a number of procedures, including submission and vetting of applications, clarification and verification of information with employers and employees (if necessary), arrangement of payment, and handling review and appeal of application results, etc. Without the aid of the DSA System, all applications will have to be processed manually and the processing time will also be substantially lengthened.

(c) Enhancing reliability, accuracy and efficiency of the administration work

The eMPF Platform and the DSA System will keep all DSA transaction records, employers' application details and documents, thereby obviating the need for manual search of voluminous paper records and reducing the lead time for manual transfer of information in the workflow, thereby enhancing the operational efficiency. An automatic workflow management system will facilitate the communication between the outsourced agent and LD, and reduce the need to manually compile the statistical returns and general documentation. In addition, the database of the DSA System will enable a more effective and speedy identification of duplicate and dubious applications for withdrawal of DSA monies or account closure, thus enhancing the efficiency and consistency of the vetting and approval process as well as strengthening the supervision.

(d) Leveraging the experience of private enterprises in developing and operating financial related systems and services

Outsourcing the development and management of the DSA System can fully tap the professional knowledge and experience of the private enterprises in building financial related systems, and their expertise and experience in providing customer services, audit and compliance of financial regulations, thereby improving the cost-effectiveness and flexibility in resource deployment in the implementation and administration of the DSA Scheme.

(e) Environmental-friendly work environment

The use of an IT system will reduce the storage space for paper forms, documents and manual records, as well as consumption of paper.

Implementation Plan

10. Subject to the support of Members and the funding approval from LegCo, our proposed way forward is as follows –

		Activity	Target completion date
(a)		eMPF Platform	
	(i)	Building the related functionalities on the eMPF Platform to support the DSA Scheme	End-2022 at the earliest
	(ii)	Full implementation (including hardware and software development, data migration of MPF trustees, etc.) of the eMPF Platform (including the DSA functionalities)	Around 2025 at the earliest

Activity	Target completion date
(b) Development and management of the DSA System	
(i) Invitation to tender and award of contract	2023
(ii) System design, and hardware and software development	2024
(iii) Interfacing with the eMPF Platform and integration test	2025
(c) Implementation of the DSA Scheme	2025

Financial Implications

Non-recurrent expenditure

11. The implementation of the proposal set out in paragraph 10 above will incur an estimated non-recurrent expenditure of $447.23 million spanning from 2021-22 to 2029-30 by LD. The breakdown is as follows –

	Item	2021-22 $'000	2022-23 $'000	2023-24 $'000	2024-25 $'000	2025-26 $'000	2026-27 to 2029-30 $'000	Total[4] $'000
(a)	**Building of DSA functionalities on the eMPF Platform**	3,440	5,188	1,889	3,232	-	-	13,749
(b)	**Development and management of the DSA System**							
(i)	Developing the DSA System							
	(1) Hardware	-	-	-	3,343	335	1,517	5,195
	(2) Software	-	-	522	1,891	579	2,615	5,607

[4] Individual figures may not add up exactly to the total owing to rounding.

Item	2021-22 $'000	2022-23 $'000	2023-24 $'000	2024-25 $'000	2025-26 $'000	2026-27 to 2029-30 $'000	Total[4] $'000
(3) System implementation and maintenance services	-	-	30,260	4,657	6,296	27,165	68,378
(4) Cloud services	-	-	5,532	5,809	6,099	26,316	43,756
(5) Communication network	-	-	-	6,899	2,052	9,289	18,240
(6) IT contract staff	-	144	902	1,588	4,840	20,883	28,357
(7) Contingency fee		14	3,722	2,419	2,020	8,778	16,953
Subtotal[4]	-	158	40,938	26,606	22,221	96,562	186,485
(ii) Daily management of DSA Scheme (in the initial five years)							
(1) Office rent and related expenses	-	-	-	10,442	4,490	18,290	33,222
(2) Administration, staff and other costs	-	-	-	12,542	44,934	156,298	213,774
Subtotal[4]	-	-	-	22,984	49,424	174,588	246,996
Subtotal for (b)[4]	-	158	40,938	49,590	71,645	271,150	433,481
Total[4]	3,440	5,346	42,827	52,822	71,645	271,150	447,230

12. On paragraph 11(a) above, the estimated expenditure of $13,749,000 is to pay for the contractor's services for developing the DSA functionalities on the eMPF Platform as well as hiring IT contract staff to provide internal technical support and to assist in managing and monitoring the contractor's performance.

13. On paragraph 11(b)(i) above, the estimated expenditure of $186,485,000 is for developing the DSA System and maintaining the DSA System in the initial five years of operation of the DSA Scheme. The

expenditure comprises the service fee for engaging the outsourced agent to design, build and maintain the DSA System (including the acquisition of computer hardware, system software, network equipment and cloud infrastructure and the related maintenance, etc.), and the expenses for LD to hire contract IT staff to provide internal technical support.

14. On paragraph 11(b)(ii) above, the estimated expenditure of $246,996,000 is for engaging the outsourced agent to provide services for the daily administration of the DSA Scheme in the initial five years of its operation. The service fee will include the office rent, and the administrative and staffing expenses involved in managing the daily operation of the DSA Scheme, etc.

15. When preparing the above estimates on the building of DSA functionalities on the eMPF Platform, LD has made reference to the information obtained from the Request for Proposal exercise for the eMPF Platform project conducted by MPFA in December 2019. LD is currently conducting a feasibility study ("FS") on the development of the DSA System so as to formulate the technical specifications of the system. In working out the cost estimates in this regard, we have taken into account the following factors: the range of functions to be undertaken by the outsourced agent, preliminary results of the FS, the need to maintain a close interface with the eMPF Platform and other related systems and the voluminous data transmission, the importance of service quality, and the obligation to ensure compliance with relevant laws in the operation of the DSA Scheme. The above estimated figures mainly serve for financial planning. The actual amount of service fee will be confirmed upon completion of an open and competitive tendering process.

Recurrent expenditure

16. From the sixth year after the implementation of the DSA Scheme onwards, the recurrent operating cost of the DSA Scheme will be recouped from the DSA employers on a cost recovery basis.

Public Consultation

17. After CE's announcement of the enhanced arrangements for the

abolition of the "offsetting" arrangement in the 2018 Policy Address, the Labour and Welfare Bureau and LD have briefed the major stakeholders, including the Labour Advisory Board, major employers' associations/business chambers and labour unions on the details of the arrangements. We have also briefed this Panel[5] on the arrangements, including the DSA Scheme, on 20 November 2018. The relevant Panel paper is at Annex.

Advice Sought

18. Members are invited to give views on the above funding proposal for implementing the DSA Scheme.

Labour and Welfare Bureau
Labour Department
January 2021

[5] Members of the Panel on Commerce and Industry, members of the Panel on Financial Affairs and all other Members of LegCo were invited to join the discussion relating to this item.

For discussion on
20 November 2018

Legislative Council Panel on Manpower

Arrangements
for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment and long service payment

Purpose

This paper briefs Members on the arrangements announced by the Chief Executive in the 2018 Policy Address for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payment (SP)/long service payment (LSP), and the preparatory work to be actively taken forward.

Background

The preliminary idea

2. In March 2018, the Government put forth a "preliminary idea" on abolishing the "offsetting" arrangement (key features at Annex A). Since then, we met with major stakeholders, including major employers' associations/business chambers, labour unions and political groups etc., and listened to their views on the preliminary idea. We consulted this Panel on 15 May and the Labour Advisory Board (LAB) on 13 June on the preliminary idea. The Legislative Council (LegCo) Panel on Commerce and Industry also discussed the issue on 19 June.

Views of major stakeholders on the preliminary idea

The labour sector

3 The labour sector in general welcomes the Government's preliminary idea, not least with regard to keeping the formula for calculating SP/LSP at two-thirds of the eligible employee's monthly wages for each year of service, as opposed to the previous-term Government's proposal to reduce the rate to one-half. On the other hand, some have continued to express concern that in certain extreme

circumstances, individual employees might receive less than what they do now notwithstanding the abolition of the “offsetting” arrangement[1]. Some have expressed reservation about the proposal of allowing employers to continue to use their MPF contributions made after the effective date of abolition (hereafter referred to as “effective date”) to offset the pre-effective date SP/LSP.

The business sector

4. Most of the major business chambers understand the Government’s determination to abolish the “offsetting” arrangement, but maintain that this policy change violates the Government’s promise that employers would not be required to pay twice when soliciting their support for introducing the MPF System. They reiterate the need to address the overlapping functions among SP, LSP and MPF and consider that restoring the SP/LSP rate to two-thirds of the monthly wages unjustified. They remain highly concerned over the possible financial impact of discharging the SP/LSP responsibilities on cash-tight establishments, notably the micro-sized enterprises with less than ten employees or outsourcing contractors in the cleaning and security industries.

5. Many employers have accepted the need to save up in advance to meet their SP/LSP liabilities by way of the proposed designated saving account (DSA). However, they are concerned that the 1% saving under DSA would not be sufficient to meet their SP/LSP incidental liabilities in full. Such concern is particularly prevalent among micro-sized enterprises and establishments that have less control over their staff turnover (e.g. outsourcing contractors).

6. The increase in Government’s financial commitment from the previous-term Government’s $7.9 billion for ten years to $17.2 billion for 12 years under the preliminary idea has been considered inadequate to help enterprises meet their SP/LSP liabilities in the long run. The business sector is of the view that retirement protection is a matter for the

1 To guard against the risk of large-scale dismissals before the abolition of the “offsetting” arrangement, it was proposed under the preliminary idea to adopt the last month’s wages before the effective date of abolition as opposed to the last month’s wages at the time of dismissal (if the dismissal is after the effective date) for calculating the SP/LSP entitlement for the employment period before the effective date. This may result in some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date receiving a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers’ mandatory contributions to their MPF accounts) than they would otherwise receive under the current “offsetting” regime.

employers, employees and Government to address together, and it is unfair to place the responsibility on employers alone. There is a strong demand from employer groups for the Government to play a longer-term or even perpetual role in sharing part of the SP/LSP responsibility following abolition of the "offsetting" arrangement. Some have requested the Government to review the subsidy scheme after its implementation. That said, many welcome the second-tier subsidy which is targeted more at the needs of micro, small and medium-sized enterprises (MSMEs) or establishments with problems in paying SP/LSP even with the help of DSA.

7 Some employer groups have expressed grave concern that abolition of the "offsetting" arrangement would hamper harmonious labour relations and increase disputes between employers and employees over SP/LSP entitlements. Some also consider the two-tier subsidy scheme too complicated to understand.

Others

8. LAB employer and employee representatives have reached a consensus that the employer representatives would not oppose to abolishing the "offsetting", and both sides urged the Government to come up with a revised proposal to provide long-term support to employers and address the concerns of MSMEs.

Government's decision to enhance the arrangements for abolishing the "offsetting"

9. The Government has, after carefully considered the views expressed by the business and labour sectors, LAB and other stakeholders, decided to enhance the arrangements for abolishing the "offsetting" and significantly increase the financial commitment to strengthen the financial assistance to MSMEs so as to address the concerns of different sectors of the community. The Chief Executive announced in the 2018 Policy Address the enhanced arrangements as follows –

(a) the major features of the preliminary idea at <u>Annex A</u> would form the basis of the arrangements for abolishing the "offsetting";

(b) while keeping the first-tier of the Government subsidy scheme at 12 years, the duration of the second-tier subsidy would be extended from 12 years to 25 years with the rate of subsidy scaling back according to the schedule at Annex B. This would substantially increase the total Government commitment from $17.2 billion proposed in the preliminary idea to $29.3 billion[2] in the 25-year subsidy period;

(c) the Government would make up for the shortfall in case an employee receives a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits attributable to the employer's mandatory contributions to his/her MPF account) than what he/she would otherwise receive under the current "offsetting" regime (see paragraph 13 below); and

(d) the enhanced Government subsidy scheme would be reviewed five years after abolition of the "offsetting" arrangement (see paragraph 14 below).

10. Our analysis shows that DSA would work better for employers with larger employment size. For micro-sized employers (i.e. employers with less than ten employees), should they need to initiate dismissals which necessitate SP/LSP payment in Year 20 after the abolition, more than half of them would have sufficient balance in their DSA to meet the SP/LSP expenses[3]. It is worth noting that, based on the "offsetting" claim data provided by the Mandatory Provident Fund Schemes Authority (MPFA), around 7 000 micro-sized enterprises were involved in "offsetting" every year in the past few years, representing only about 4% of all micro-sized enterprises with employees in Hong Kong.

11. To strike an appropriate balance between the two objectives of better helping enterprises adapt to the policy change of abolishing the "offsetting" arrangement and ensuring the proper use of public funds, the duration of the 12-year first-tier subsidy would not be extended under the enhanced government subsidy scheme as the majority of large enterprises should be able to accrue enough savings in their DSAs to cope with their

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2 The crude estimate is calculated based on an average saving balance in DSAs of incident employers which is less than 15% of the annual relevant income, having taken into account that in reality some incident firms would have operated for less than 15 years in Year 20 after the abolition.

3 The crude estimate has assumed that the incident employers have accumulated an amount up to the cap of 15% of the annual relevant income of their employees in their DSAs and has excluded closure cases of micro-sized firms.

SP/LSP liabilities. On the other hand, extending significantly the period of the second-tier subsidy from 12 years to 25 years could better focus the resources in assisting MSMEs or enterprises which are more prone to large-scale retrenchment as the chances of their having inadequate savings in their DSAs and hence requiring the second-tier subsidy is envisaged to be far greater than large enterprises. A comparison of the maximum subsidy rate under the enhanced subsidy scheme with that under the preliminary idea is set out at Annex C.

12. The enhanced second-tier subsidy would help alleviate the financial burden of micro-sized incident employers who have inadequate savings in their DSAs. A crude estimate is that the average amount of top-up to be made by these micro-sized employers for each incident employee would be reduced from $86,000 under the preliminary idea to $69,000 at Year 20 after the abolition while the total top-up amount for each incident employer would be lowered from $219,000 under the preliminary idea to $179,000. As noted in paragraph 10 above, statistics in past few years show that the number of micro-sized enterprises involved in "offsetting" accounted for a small proportion of all the micro-sized enterprises. Of these, only a proportion had to make top-up payments to incident employees.

Other implementation and technical details

Employees being worse off after abolition of the "offsetting" arrangement

13. As mentioned in paragraph 3 above, there is a possibility that some employees with relatively long employment period before the effective date and with substantial pay rise after the effective date might receive a smaller amount of aggregate benefits (SP/LSP entitlement together with the accrued benefits of their employers' mandatory contributions to their MPF accounts) than what they would otherwise receive under the current "offsetting" regime. Taking heed of the concerns expressed by the labour sector, the Government would make up for the shortfall should such cases, which we do not expect to be many, arise so as to ensure that employees would not be worse off. Otherwise it would go against the policy objective of improving employees' benefits by abolishing the "offsetting" arrangement. Details of the arrangement would be worked out in the implementation stage.

Review of the subsidy scheme

14. To allay the concerns of some employers that the subsidy scheme is too complicated and may not render adequate assistance to MSMEs, we plan to review the operation of the subsidy scheme five years after implementation of the abolition of the “offsetting” arrangement.

DSA

15. There is a need for the collection of funds from employers and their disbursement from DSA. We would make use of the e-MPF platform for the collection of employers’ contributions to their respective DSAs and for subsequent payment of SP/LSP for more cost-effective administration.

16. As for employers’ savings in DSAs, we will explore the feasibility of having them, together with the Government’s possible financial commitment to the scheme, placed with the Hong Kong Monetary Authority (HKMA). This should enable the funds to be treated in the same manner as other government or public placements, which share the return of the Exchange Fund without any charge or management fees. Details of the arrangement will be worked out with HKMA later.

Preparatory work

17. This Panel apart, we are also conducting briefings for major business chambers/employers’ associations and labour groups on the above-mentioned enhanced arrangements for abolishing the “offsetting” arrangement.

18. Taking into account the complexities of the legislative amendments involved, the Government will strive to introduce the enabling bill into the LegCo in 2020 with a view to securing its passage by 2022. In the interim, we will work out the implementation details of the supporting measures including setting up of DSA and the disbursement of Government subsidy with relevant parties including MPFA. Our target is to implement the abolition two years after passage of the enabling legislation.

Advice sought

19. Members are invited to give their views on the content of this paper.

Labour and Welfare Bureau
Labour Department
November 2018

Annex A

Major Features of the Preliminary Idea Proposed in March 2018 on the Abolition of Using Employers' Mandatory Contributions under the Mandatory Provident Fund System to Offset Severance Payment and Long Service Payment

(a) The rate for calculating SP and LSP reverts to two-thirds of the monthly wages of the employee for each year of service (as opposed to 50% under the previous-term Government's proposal), and the maximum payment of SP/LSP keeps at $390,000;

(b) Each employer sets up a DSA under his/her own name and contributes 1% of his/her employees' monthly income to the DSA until reaching 15% of the employees' annual income for payment of SP/LSP. Employers making voluntary MPF contributions at 1% or above, in addition to the 5% mandatory contribution stipulated by the Mandatory Provident Fund Schemes Ordinance may be exempted from setting up their DSAs. Likewise, employers with contributions in excess of 5% under the Occupational Retirement Schemes Ordinance (ORSO) and school provident funds under the Grant/Subsidized Schools Provident Fund Rules of the Education Ordinance would also be exempted;

(c) Government provides a two-tier subsidy with duration extended to 12 years and the quantum increases to $17.2 billion to help share employers' expenses on SP/LSP in respect of the employment period after the effective date of abolition within the 12-year transitional period. The first-tier subsidy is available for all incident employers (i.e. those who need to pay SP/LSP to their employees). The maximum rate of subsidy would be pitched at 50% of the SP/LSP payable in the first three years after abolition of the "offsetting" arrangement and reduced progressively thereafter until it is diminished to 5% in the 12th year. Should an employer's DSA accrued balance be insufficient to pay SP/LSP after netting the first-tier subsidy, the second-tier subsidy would kick in to share the outstanding amount at the same rate as the first-tier in the relevant year. Government's share of SP/LSP in the 12-year subsidy period is as follows–

Year after the abolition	Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting" arrangement	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy** (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	40%
6	35%	35%
7	30%	30%
8	25%	25%
9	20%	20%
10	15%	15%
11	10%	10%
12	5%	5%
13	-	-

(d) The "offsetting" arrangement will be abolished as from a future effective date with no retrospective effect (the "grandfathering" arrangement), while the SP/LSP entitlement for an employee's employment period before the effective date of abolition could continue to be offset by the employer's contributions under the MPF System made both before and after the effective date; and

(e) Other technical features as embodied in the previous-term Government's proposal should remain. These include–

(i) the abolition of the "offsetting" should also be applicable to the occupational retirement schemes under the ORSO and the two school provident funds under the Grant/Subsidized Schools Provident Fund Rules governed by the Education Ordinance with the same effective date set for the MPF System;

(ii) voluntary contributions under the MPF System in excess of the mandatory 5% and the accrued benefits can continue to be used for offsetting SP/LSP. Likewise, gratuity based on length of service as voluntary payment of employers to employees can also continue to be used to offset SP/LSP;

(iii) for employees not covered by the MPF System (currently domestic helpers, whether foreign or local, and employees aged below 18 or aged 65 or above) or other statutory retirement schemes, their employers will not be reimbursed with any subsidy from Government for payment of any SP/LSP; and

(iv) any SP/LSP payable for the employment period up to the effective date would be calculated on the basis of the monthly wages as at the effective date, as opposed to the last monthly wages at the time of dismissal (if the dismissal is after the effective date) as presently provided under the Employment Ordinance.

Annex B

Further Enhanced Government Subsidy
for Sharing Employers' Expenses on SP/LSP

Year after the abolition	**Government's share of SP/LSP in respect of the employment period after the abolition of the "offsetting"**	
	First-tier subsidy (as % of SP/LSP payable)	**Second-tier subsidy (as % of outstanding SP/LSP payable after netting first-tier subsidy and accrued balance of DSA)**
1	50%	50%
2	50%	50%
3	50%	50%
4	45%	45%
5	40%	45%
6	35%	45%
7	30%	40%
8	25%	40%
9	20%	40%
10	15%	35%
11	10%	35%
12	5%	35%
13	-	30%
14	-	30%
15	-	30%
16	-	25%
17	-	25%
18	-	25%
19	-	20%
20	-	20%
21	-	20%
22	-	15%
23	-	15%
24	-	10%
25	-	10%
26	-	-

Annex C

A Comparison of the Government's Maximum Subsidy to Employers under the Enhanced Abolition Arrangements and the Preliminary Idea

Year after the abolition	Government's maximum (Note 1) subsidy to employers as % of SP/LSP payable in respect of the employment period after the abolition of the "offsetting"					
	Government subsidy under the enhanced abolition arrangements			Government subsidy under the preliminary idea		
	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)	First-tier subsidy	Second-tier subsidy (Note 2)	Total (First-tier + Second-tier)
1	50%	25%	**75%**	50%	25%	75%
2	50%	25%	**75%**	50%	25%	75%
3	50%	25%	**75%**	50%	25%	75%
4	45%	24.75%	**69.75%**	45%	24.75%	69.75%
5	40%	27%	**67%**	40%	24%	64%
6	35%	29.25%	**64.25%**	35%	22.75%	57.75%
7	30%	28%	**58%**	30%	21%	51%
8	25%	30%	**55%**	25%	18.75%	43.75%
9	20%	32%	**52%**	20%	16%	36%
10	15%	29.75%	**44.75%**	15%	12.75%	27.75%
11	10%	31.5%	**41.5%**	10%	9%	19%
12	5%	33.25%	**38.25%**	5%	4.75%	9.75%
13	-	30%	**30%**	-	-	-
14	-	30%	**30%**	-	-	-
15	-	30%	**30%**	-	-	-
16	-	25%	**25%**	-	-	-
17	-	25%	**25%**	-	-	-
18	-	25%	**25%**	-	-	-
19	-	20%	**20%**	-	-	-
20	-	20%	**20%**	-	-	-
21	-	20%	**20%**	-	-	-
22	-	15%	**15%**	-	-	-
23	-	15%	**15%**	-	-	-
24	-	10%	**10%**	-	-	-
25	-	10%	**10%**	-	-	-
26	-	-	**-**	-	-	-

Notes:

1. This shows the maximum Government subsidy share. As most employers would probably have savings accrued in their DSAs, it is likely that in most cases requiring the second-tier subsidy, the Government only needs to share part of the employer's remaining SP/LSP after discounting the first-tier subsidy.

2. The figure of Government's maximum share of SP/LSP payment under the second-tier subsidy in the relevant year is calculated by multiplying the remaining percentage of SP/LSP after netting the first-tier subsidy in that year by the sharing percentage of the second-tier subsidy in the same year. For example, under the enhanced abolition arrangements, in the fifth year after the abolition of the "offsetting", the Government's shares in the first-tier subsidy and the second-tier subsidy are 40% and 45% respectively (see Annex B). The second-tier subsidy is derived by [100% - 40% (the first-tier subsidy)] x 45%, i.e. 27% of the SP/LSP payment of the incident employer.