

Enhanced Regulation of Mandatory Provident Fund Intermediaries – Consultation Conclusions and Detailed Proposals

The Administration and the Mandatory Provident Fund Schemes Authority (“MPFA”) jointly issued a Panel Paper (CB(1)1748/10-11(03)) entitled “Enhanced Regulation of MPF Intermediaries” (“Consultation Paper”) on 28 March 2011 to commence a consultation exercise on the legislative proposals to enhance the regulation of Mandatory Provident Fund (“MPF”) intermediaries, establish an electronic platform (“E-platform”) to facilitate transfer of MPF benefits by scheme members between different approved trustees, and enhance the deterrent against default contributions by employers.

2. To recapitulate, currently, the MPFA operates an administrative registration regime for MPF intermediaries and relies, as far as practicable, on the regulatory efforts made by the Hong Kong Monetary Authority, the Insurance Authority and the Securities and Futures Commission (thereunder collectively referred to as the frontline regulators (“FRs”)) for the supervision of MPF intermediaries who are their own regulatees under the Banking Ordinance (Cap. 155), the Insurance Companies Ordinance (Cap. 41) and the Securities and Futures Ordinance (Cap. 571) respectively. With rising public expectation towards investor protection and in anticipation of more proactive sales and marketing activities targeting at over 2.5 million MPF scheme members upon the implementation of the Employee Choice Arrangement (“ECA”), the Administration agrees with the MPFA that it would be prudent to introduce a statutory prohibition against conduct of regulated MPF sales and marketing activities other than by registered MPF intermediaries and put in place a statutory framework for the regulation of registered MPF intermediaries, which is modelled on the existing administrative registration regime, before implementation of the ECA to better protect scheme members.

Background

3. Prior to the release of the Consultation Paper, the MPFA has conducted soft consultation with the industry and conducted six briefing sessions for industry bodies. Industry feedback has been incorporated into the legislative proposals set out in the Consultation Paper as appropriate. After release of the Consultation Paper and the meeting of the Legislative Council (“LegCo”) Panel on Financial Affairs on 4 April 2011 to consult Members on the proposals, we have proactively invited further comments from the industry and stakeholder groups, reached out to the Consumer Council, and increased publicity of the consultation exercise through the District Offices. Three additional briefing sessions have been arranged.

The Consultation Paper was posted on the websites of the Financial Services and the Treasury Bureau and the MPFA respectively inviting public comments.

Outcome of Consultation

4. As at 28 July 2011, we have received a total of 13 written submissions from various organizations. The list of respondents is at **Annex A**. The consultation findings together with the response of the Administration and the MPFA are set out in the consultation conclusions at **Annex B**.

5. We note that there is general support for enhancing the regulation of MPF intermediaries before implementation of the ECA and the majority of respondents did not indicate disagreement with the proposal that the statutory regulatory regime be modelled on the existing administrative regulatory arrangements. We also received comments on how to ensure regulatory consistency and level playing field under the proposed regulatory model, the scope of regulated activities that would require MPF registration, the conduct requirements to be imposed on registered MPF intermediaries and the transitional arrangements for the pre-existing MPF intermediaries. Those written submissions which commented on the proposals to establish an E-platform and to enhance the deterrent against default contributions by employers are supportive of these proposals. In response to these comments, we set out in the Paper entitled “Enhanced Regulation of Mandatory Provident Fund Intermediaries – Consultation Conclusions and Detailed Legislative Proposals” issued to the LegCo Panel on Financial Affairs on 29 July 2011 (<http://www.legco.gov.hk/yr10-11/english/panels/fa/papers/facb1-2845-1-e.pdf>) the relevant detailed proposals and also highlight the modifications we would propose to enhance the proposed statutory regulatory regime for MPF intermediaries.

Next steps

6. The Administration and the MPFA are preparing the Bill taking into account the comments received. We will continue to listen to views from the industry and stakeholders in the process. We aim to introduce the Bill into LegCo in Q4 this year with a view to completing the legislative process within the current LegCo term such that the ECA may commence in the second half of 2012.

Financial Services and the Treasury Bureau
Mandatory Provident Fund Schemes Authority
29 July 2011

List of bodies which submitted written submission on the legislative proposals on Enhanced Regulation of MPF Intermediaries

1. The Consumer Council
2. The Federation of Hong Kong and Kowloon Labour Unions
3. The General Agents and Managers Association of Hong Kong
4. The Hong Kong Association of Banks
5. The Hong Kong Confederation of Insurance Brokers
6. The Hong Kong Federation of Insurers
7. The Hong Kong Investment Funds Association
8. The Hong Kong Trustees' Association
9. The Institute of Financial Planners of Hong Kong
10. The Insurance Agents Registration Board
11. The Law Society of Hong Kong
12. The Life Underwriters Association of Hong Kong
13. The Professional Insurance Brokers Association

**Summary of Major Comments Received¹ and the Response of
the Administration and the Mandatory Provident Fund Schemes Authority (“MPFA”)**

Issues	Comments Received	Response from the Administration and the MPFA
Proposed establishment of a statutory regulatory regime for MPF intermediaries before implementation of the Employee Choice Arrangement (“ECA”)	<ul style="list-style-type: none">■ There is general support for the proposal to establish a statutory regulatory regime for Mandatory Provident Fund (“MPF”) intermediaries before implementation of the ECA for better protection of scheme members’ interest. One respondent considers that the ECA may commence ahead of the new intermediary regulatory arrangement.	We welcome the general support for the proposal to ensure better protection of scheme members’ interest before implementation of the ECA.
Proposed regulatory approach	<ul style="list-style-type: none">■ The majority of respondents did not indicate disagreement with the proposal that the statutory regulatory regime be modelled on the existing administrative arrangements, while they stressed the	We note there is no disagreement with the proposal that the statutory regulatory regime be modelled on the existing administrative regulatory arrangements The continuation of the existing approach reflects the

¹ We are processing the 13th submission received on 26 July 2011 and our response has therefore not been reflected in this document.

Issues	Comments Received	Response from the Administration and the MPFA
	<p>importance of ensuring regulatory consistency and a level playing field under such regulatory model. One respondent proposed the model of direct regulation of MPF intermediaries by the MPFA.</p>	<p>general industry profile of MPF intermediaries carrying out MPF sales and marketing activities as incidental to their core business in banking, insurance or securities, as the case may be. The continuation of the existing regulatory approach would minimize disruption to the existing regulatory arrangements which MPF intermediaries are familiar with, make more efficient use of regulatory resources and facilitate early implementation of the Employee Choice Arrangement (“ECA”). We have taken into account the views expressed by respondents on the need to ensure regulatory consistency and level playing field and modified the proposals to address their concerns, in particular to strengthen the role of the MPFA as the lead regulator of MPF intermediaries. We have proposed in the Consultation Paper various measures to ensure regulatory consistency and level playing field. To recap, these measures are -</p> <ul style="list-style-type: none"> (a) the MPFA will be the authority to register MPF intermediaries; (b) the MPFA will be the sole standard-setter and be

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		<p>empowered to make rules, after consultation with FRs, on statutory conduct requirements. It will also be empowered to issue codes/guidelines for the purpose of giving guidance on compliance with the statutory conduct requirements;</p> <p>(c) the legislation will delineate clearly the respective powers and functions of the MPFA and the FRs, and arrangements will be agreed between the MPFA and the FRs on this basis through, for example, the signing of a Memorandum of Understanding among them;</p> <p>(d) the legislation will provide that, in case of misconduct, the MPFA will be the authority to make disciplinary decisions on suspension or revocation of registration of an MPF intermediary under specified circumstances, taking into account the investigation results of the FRs, whereas the FRs will be empowered to issue reprimands or impose fines;</p> <p>(e) all appeals against registration and disciplinary decisions with regard to MPF intermediaries will be handled by a single independent appellate</p>

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		<p>body;</p> <p>(f) the MPFA will establish a regular liaison mechanism with participation of all FRs to enhance communication and exchange of views on the making of codes, guidelines and rules on conduct requirements, enforcement principles and other issues of mutual concern over the regulation of MPF intermediaries; and</p> <p>(g) an independent Process Review Panel will be established to review the enforcement procedures of MPFA and FRs to ensure, among other things, consistent internal process on MPF enforcement among the FRs and within the MPFA.</p> <p>In addition, to facilitate the handling of complaints of MPF scheme members, the MPFA will be the central point for receiving all complaints on MPF sales and marketing activities and will conduct initial processing of them. It will assign the complaints for follow-up by the relevant FRs as appropriate and maintain an oversight of the outcome.</p> <p>We propose to strengthen the role of the MPFA as the lead</p>

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		<p>regulator of all MPF intermediaries. In particular, on account of the comments raised by some respondents about consistency in enforcement and the perceived complications with splitting power to impose disciplinary sanctions between the MPFA (for suspension and revocation of registration) and the FRs (for reprimand and fines), we propose to modify the proposed measure at paragraph 8(d) above such that disciplinary powers would be vested with the MPFA (including reprimand, fines, suspension and revocation of registration and prohibition from applying for registration) with active participation of FRs in the disciplinary process. In actual operation, the MPFA will be assisted by the HKMA, IA and SFC, which, in recognition of their distinct role as the primary and lead regulator for their own sectors, will perform the role of the FRs for MPF intermediaries from their own sectors. Before making any disciplinary decision, the MPFA will take into account the investigation results and recommendations of the FRs and institute process for ensuring procedural fairness for the intermediaries concerned, including the opportunity of being heard before imposing any disciplinary action.</p> <p>We believe this modified proposal will further ensure fairness and consistency in disciplinary decisions and create a level playing field.</p>

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<p>Coverage of “Regulated Activities” [“invite or induce, or attempt to invite or induce, another person to make an MPF decision as defined; or gives advice to another person for assisting that other person to make such decision”]</p>	<ul style="list-style-type: none"> ■ Some respondents asked for clarifications on the coverage and requested that guidelines on what constitute “giving advice” should be provided. ■ A few respondents suggested that the legislation should catch advice on “fund selection” and should not cover staff performing administrative functions nor mere provision of published information. 	<p>The legislative intent is to regulate MPF sales and marketing activities carried out in the course of business or employment or for reward. The legislation will not regulate the conduct of administrative functions or the mere act of distributing MPF scheme related materials already authorized under s.105 of the Securities and Futures Ordinance (“SFO”).</p> <p>The MPFA will seek to facilitate compliance by the industry by say, promulgating guidelines and frequently-asked-questions to provide practical guidance to MPF intermediaries.</p>
<p>Exemption from registration requirement</p>	<ul style="list-style-type: none"> ■ A few respondents considered that – <ul style="list-style-type: none"> (a) the exemption should cover delegates (administration and call centre staff) of trustees and institutions wholly/ partially owned by them; 	<p>The prohibition will not relate to the administrative functions of trustees. On the other hand, for better protection of scheme member’s interest, MPF sales and marketing activities of approved trustees (other than those incidental to their trustee function) would not be exempted.</p>

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	<p>(b) the exemption should be available only to those giving advice to corporate clients but not individuals;</p> <p>(c) lawyers and accountants etc. who are not subject to any FR should not be exempted; and</p> <p>(d) provision of advice to an employer who is a “professional investor” should be exempted.</p>	<p>The proposed exemptions are intended to cover those who give advice on MPF products wholly incidental to their ordinary course of business. This is in line with similar practice in other financial sectors, for example, under the SFO.</p> <p>The proposed exemption to cover lawyers and accountants models on a similar arrangement in the SFO whereby these professionals would not require a licence under the SFO if the advice one gives is wholly incidental to his practice as a lawyer or an accountant. This is on consideration that these professionals are already subject to an existing regulatory regime for their practice including the giving of advice.</p> <p>Currently, employers choose for their employees the MPF schemes for the mandatory contributions required under the Mandatory Provident Fund Schemes Ordinance (“MPFSO”). After implementation of the ECA, employees may transfer the benefits accrued from their own mandatory contribution during current employment to another scheme of their choice. Under these circumstances, for protection of scheme members’</p>

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		<p>interest, it would not be appropriate to extend the exemption to the sales and marketing activities targeted at the employer level or at particular categories of employers, which may unnecessarily complicate the regulatory regime.</p>
<p>Conduct Requirements</p>	<ul style="list-style-type: none"> ■ Some respondents commented that the conduct requirements should be objective and measurable and the MPFA should engage the market in formulating the details. Specific comments include: <ul style="list-style-type: none"> (a) risk profiling should apply to fund selection but not scheme selection and with exemptions for online switching, etc.; (b) the consideration of avoiding conflict of interests should apply only to intermediaries marketing MPF schemes by different sponsors; 	<p>In preparation for the implementation of the ECA and the statutory regulatory regime for MPF intermediaries, the MPFA is preparing a new code on conduct standards. As in the case of other regulatory regimes in the financial sector, the proposed legislation will set out the core principles and areas which MPF intermediaries are required to observe in conducting the sales and marketing of MPF products. The MPFA will be empowered to issue a Code of Conduct under the proposed legislation, providing guidance to MPF intermediaries about compliance with the core principles that should be adopted in conducting MPF sales and marketing activities. The MPFA may, after consultation with the FRs, include additional requirements that are applicable under specific operating environments.</p> <p>The MPFA will take into account the comments received in preparing the Code in consultation with the FRs. It</p>

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	<p>(c) intermediaries receiving benefits for services/advice provided should not be considered as having a “conflict of interest”;</p> <p>(d) the MPFA should provide more details on the requirements on internal control; and</p> <p>(e) a requirement for MPF intermediaries to disclose to prospective clients when carrying out MPF sales and marketing activities the level of commission (or benefits) receivable for the sale of the relevant MPF products should be added to mitigate any potential conflicts of interest.</p>	<p>plans to release a draft of the Code in Q4 2011 for further consultation with the industry.</p>

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Admission and Registration Criteria	<ul style="list-style-type: none"> ■ A few respondents suggested that there should be more details on the registration criteria and the ongoing monitoring mechanisms. In particular, whether a licence issued by the SFC under the SFO is required for giving advice on MPF products. 	<p>The legislation will set out clearly who may be admitted (see Legislative Council Panel of Financial Affairs Paper (CB(1)1748/10-11(03) entitled “Enhanced Regulation of Mandatory Provident Fund Intermediaries”) for conducting sales and marketing activities involving MPF schemes and funds under MPF schemes, including inter alia the requirement for an applicant to be holding a valid licence / registration / authorization in the securities / banking / insurance regulatory regime, as appropriate.</p> <p>Under the proposal, in applying for registration for conducting MPF sales and marketing activities, an applicant could, depending on his core business, rely on his status as a SFC licensee, an individual registered under the Banking Ordinance to carry out dealing in securities or advising on securities, or an insurance intermediary eligible to engage in long term business in accordance with the ICO under the insurance regulatory regime.</p>
	<ul style="list-style-type: none"> ■ A respondent considers that only those authorized insurance brokers or appointed insurance agents eligible to 	<p>The MPFA reviews the professional and conduct requirements for the MPF industry from time to time. The Authority will further discuss with the IA and the</p>

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	<p>engage in linked long term insurance business should be admitted for the sales and marketing of MPF products to MPF scheme members.</p>	<p>industry this view as reference for its future updating of the regulatory requirements.</p>
	<ul style="list-style-type: none"> ■ Some respondents consider that there should be no additional examination or CPD requirements to facilitate the transition of existing intermediaries into the new regime, while there is a suggestion that “Fund Fact Sheet” should be covered in the MPF intermediaries examination. 	<p>The current sets of entry examination and CPD requirements for MPF intermediaries were last updated by the MPFA in October 2009 and October 2005 respectively, and “Fund Fact Sheet” is already covered in the MPF intermediaries examination syllabus. The MPFA has no plan at present to introduce new requirements. Whilst the examination and CPD requirements would require regular review in light of market development, and public expectation, it is not MPFA’s intention to introduce any new requirements as a result of implementation of the proposed regime.</p>
<p>Regulatory scope of frontline regulators</p>	<ul style="list-style-type: none"> ■ Most respondents did not raise any issue with the proposed mechanism for assigning individual MPF intermediaries to the relevant FRs. A few respondents expressed concern that assigning MPF 	<p>To enable proper handling of possible odd cases as mentioned in the comment received, we propose that in such rare circumstances, the MPFA should be empowered to assign the MPF intermediary to a FR having regard to the core business of the principal intermediary concerned.</p>

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	intermediaries to FRs strictly in accordance with a fixed set of statutory criteria may risk, in a small number of cases, resulting in an MPF principal intermediary not being subject to frontline supervision by the regulator of his core business.	

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Disciplinary process	<ul style="list-style-type: none"> ■ Some respondents consider that it is important to ensure consistency in disciplinary decisions by different regulators. ■ A few respondents consider the proposed arrangement whereby the MPFA may decide to suspend or revoke the registration of an MPF intermediary while the FRs may order fine and reprimand is complicated and needs further justifications. 	<p>As explained under “Proposed regulatory approach” above, we shall modify our original proposal such that disciplinary powers would be vested with the MPFA with FRs active participation in the disciplinary process. We believe the modified proposal will further ensure fairness and consistency in disciplinary decisions.</p> <p>With reference to the range of disciplinary sanctions available to SFC, we propose that the MPFA should also be empowered to prohibit a non-complying MPF intermediary from reapplying for registration within a specified period. This will allow the MPFA to protect the scheme members more effectively.</p>
	<ul style="list-style-type: none"> ■ One respondent commented that the power to order disciplinary fines may render the regime of criminal nature and the consequent higher standard of proof and procedural safeguards may detract the objective of speedy and efficient handling of complaints. 	<p>The level of disciplinary fines will be proportionate to the seriousness of the misconduct committed. We propose the maximum level of fine at \$10,000,000, similar to the maximum level of fine under the SFO (sections 194 and 196). These fines are regulatory in nature and targeted at a clearly defined regulated class.</p>

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		<p>The legislation will set out clearly the procedural safeguards to ensure a fair and just process, including the requirement for the MPFA to (a) inform the intermediary concerned in writing the disciplinary action being considered, the reasons therefor and the facts involved; (b) allow the intermediary concerned an opportunity of being heard before making any disciplinary decision; and (c) remind the intermediary concerned of his right to lodge an appeal against the relevant disciplinary decision to an independent appellate body, i.e. the Mandatory Provident Fund Schemes Appeal Board (“MPFSAB”).</p> <p>In the interest of justice, the above procedural safeguards will apply to all disciplinary decisions (viz. fine, reprimand, suspension and revocation of registration).</p>
<p>Process Review Committee and appeal mechanism</p>	<ul style="list-style-type: none"> ■ A few respondents suggested that there should be industry representatives in the proposed Process Review Panel and appellate body to provide the requisite industry expertise and facilitate understanding of the operation of the MPF sector. 	<p>We intend to invite, inter alia, individuals from the industry to join the proposed Process Review Panel, whose membership should be broadly based and feature relevant experience and expertise.</p> <p>As for the appeal mechanism, the statutory functions of the existing appellate body, MPFSAB, under the MPFSO</p>

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	<ul style="list-style-type: none"> ■ One respondent commented that the operation of the appeal mechanism should be clearly set out. 	<p>will be extended to cover registration and disciplinary decisions made in respect of MPF intermediaries. Members familiar with the operation of the MPF market will be considered for inclusion into the appellate body to adjudicate relevant cases.</p>
<p>Interface with the on-going regulatory reform for the insurance sector</p>	<ul style="list-style-type: none"> ■ A number of respondents from the insurance sector suggested that the proposed establishment of an independent Insurance Authority (“IIA”) should be taken into account and the future role of insurance self-regulatory organizations (“SROs”) in the regulation of MPF intermediaries should be clarified. 	<p>In light of wide public expectation and general support from the Legislative Council (“LegCo”) for implementation of the ECA as soon as possible, we have pledged to introduce the Bill on the regulation of MPF intermediaries in Q4 2011 with a view to completing the legislative process within the current LegCo term in mid - 2012, such that the MPFA can implement the ECA as soon as possible thereafter. The proposal to establish an IIA is a separate legislative exercise. We aim to make available draft key legislative provisions on IIA for engaging the general public and stakeholders in early 2012.</p> <p>Under the proposed statutory regulatory regime for MPF intermediaries, IIA will be the FR for the regulation of MPF intermediaries from the insurance sector in future consistent with the planned migration of the</p>

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		self-regulatory approach in the insurance sector into direct regulation of insurance intermediaries by the proposed IIA. Pending establishment of the IIA, the existing IA will take up that FR role in the interim. The MPFA and the Office of the Commissioner of Insurance (“OCI”) will engage the three SROs in formulating detailed transitional arrangements.
Dispute Resolutions/ compensation	<ul style="list-style-type: none"> ■ One respondent commented that scheme members should be empowered to seek compensation direct from the parties concerned. 	Section 108 of the SFO covers misrepresentations made in respect of collective investment arrangements including MPF schemes. Scheme members who suffer loss due to fraudulent, reckless or negligent misrepresentation by an MPF intermediary may seek compensation from the intermediary under this provision.
	<ul style="list-style-type: none"> ■ Some respondents suggest that the purview of the Financial Dispute Resolution Centre (“FDRC”) should be extended to cover MPF sales and marketing activities. 	The FDRC is scheduled to commence operation in the first half of 2012. Its scope will initially cover activities conducted by banks and securities firms, including their MPF intermediary activities. We will review the extension of its scope to cover the insurance sector and related MPF intermediary activities having regard to its actual operation.

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MPF Register	<ul style="list-style-type: none"> <li data-bbox="539 368 1178 699">■ Some respondents are concerned about the proposed inclusion of disciplinary proceedings of FRs in respect of their own sectors in the MPF Register in view of the nature of the enforcement procedures and practice of different FRs. <li data-bbox="539 703 1178 890">■ One respondent suggested that there should be a mechanism to delete the references to old disciplinary records. <li data-bbox="539 895 1178 1273">■ A few respondents sought clarification as to what “other particulars” may be included in the Register. 	<p data-bbox="1200 368 2042 699">We agree that only MPF-related disciplinary sanctions imposed on an intermediary should be included in his entry in the MPF Register. The original proposal will be modified accordingly.</p> <p data-bbox="1200 703 2042 890">The proposal in the Consultation Paper is to retain in the Register disciplinary records for a period of 5 years.</p> <p data-bbox="1200 895 2042 1273">The legislation will set out clearly the types of information that may be included in the Register, viz. those set out in items (a) to (g) of Appendix B to the Annex to the Consultation Paper. If in future the MPFA decides that other types of information should be added to the Register, the proposed additions will be prescribed by way of subsidiary legislation subject to vetting by LegCo.</p>
Registration fees	<ul style="list-style-type: none"> <li data-bbox="539 1289 1178 1367">■ Some respondents request details on the fee level. 	<p data-bbox="1200 1289 2042 1367">As proposed in the Consultation Paper, while the legislation will include an enabling provision for the</p>

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	<ul style="list-style-type: none"> ■ A few respondents do not support the charging of registration fee as intermediaries are already paying registration and/or licence fees to their respective FRs and the registration fees may add to the fund expense charged on scheme members. 	<p>MPFA to charge a registration fee, it is the MPFA's intention to waive the fees in the initial years of operation of the new regime. The MPFA's plan is that the fee, if to be charged in future, would be set based on a cost recovery principle. It will be prescribed by way of subsidiary legislation subject to vetting by LegCo.</p>
Transitional arrangements	<ul style="list-style-type: none"> ■ Most respondents welcome the proposal to provide for a two-year transitional period for pre-existing MPF intermediaries. ■ A few respondents consider that the Government and the MPFA should publish details on the transitional arrangements as soon as possible. 	<p>To minimize the impact on pre-existing MPF intermediaries, we propose that all MPF intermediaries already validly registered with the MPFA before commencement of the new regulatory regime will be automatically transferred to the new regime. If they wish to continue to carry on MPF sales and marketing activities after the transitional period, they will need to complete application procedures with the MPFA before the expiry of the transition period. The MPFA envisages that according to the mechanism to be set out in the legislation, in general, the pre-existing intermediaries will be assigned to the same FR as under the current administrative regime.</p> <p>For protection of scheme members' interests, during the transitional period, the pre-existing MPF intermediaries</p>

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		<p>will be, as will be the case for the newly registered MPF intermediaries, subject to the statutory conduct requirements, such that non-compliance may result in disciplinary sanctions. The MPFA and the FRs may exercise their inspection, investigation and disciplinary powers under the legislation to ensure compliance by all MPF intermediaries. For better management of applications, the MPFA will encourage intermediaries to apply early during the transitional period and liaise with the principal intermediaries on the timing of their application and those by their sponsored intermediaries such that the applications can be more evenly staggered.</p> <p>Such transition for pre-existing intermediaries will be subject to specified conditions e.g. they will have to continue to fulfill the on-going Continuing Professional Development requirements and comply with the conduct requirements and relevant obligations as provided in the legislation during the transitional period.</p>
Consultation and industry engagement	<ul style="list-style-type: none"> ■ A few respondents consider that there should be a longer consultation period with more details on the draft legislation and the transitional arrangements etc. 	<p>The proposed legislation seeks to provide statutory backing to the existing administrative arrangements which have been put in place upon the commencement of the MPF system since 2000 and with which the industry is familiar. The statutory supervision, investigation and</p>

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		<p>disciplinary powers and safeguards follow closely those set out in the SFO (sections 180, 182 - 183 and 194 - 198). Prior to the formal consultation exercise, the Administration and the MPFA have proactively engaged the industry and briefed them on the proposed arrangements in a soft consultation. Their views have been taken into account in preparing the consultation proposals. We have also contacted the relevant organizations again in end June / early July 2011 to remind them to submit their written comments to us as soon as possible.</p> <p>The Administration and the MPFA will continue to engage the industry and listen to their views in preparing the legislation, with a view to introducing the Bill into the LegCo in Q4/2011. The MPFA has advised that if the Bill is enacted within the current LegCo term, the ECA could be implemented in the 2nd half of 2012.</p>
Miscellaneous	<ul style="list-style-type: none"> ■ A respondent considers that there should be a liaison mechanism with the industry during the early stage of implementation of the new regime to ensure smooth 	The MPFA will liaise with the industry for this purpose.

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	transition.	
	<ul style="list-style-type: none"> ■ A few respondents consider that the MPFA should continue with the existing practice of issuing identification cards to registered MPF intermediaries. 	<p>We have proposed that the requirement for regular renewal of registration be dispensed with in future. There are operational issues with the suggestion to continue with the issue of identification cards under this proposal. In future, registered MPF intermediaries should continue to print their registration number on their business cards for easy identification.</p>
	<ul style="list-style-type: none"> ■ A respondent suggests a prohibition against sponsored intermediaries taking personal information of scheme members when they cease to work for the sponsors concerned. There should be a standard declaration form for client transfer to protect clients' interest and privacy. 	<p>Intermediaries are required to abide by the Personal Data (Privacy) Ordinance which prohibits, among other things, the use of personal data for purposes other than the intended use at the time of the collection of the information. The MPFA will consider including in its Code further requirements or procedural steps to better protect data privacy. (see "Conduct Requirement" above).</p>
	<ul style="list-style-type: none"> ■ A respondent considers that there should be a comprehensive investor education programme with industry involvement. 	<p>Educating MPF scheme members has always been high on the agenda of the MPFA since the commencement of the MPF system in 2000. Over the last couple of years,</p>

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		<p>the MPFA has intensified its educational efforts through extensive briefings and publication of booklets and articles in newspapers for the industry and the general public. Moreover, prior to the implementation of the ECA, the MPFA will provide training to MPF intermediaries to help them prepare for the new regime and facilitate their compliance with the conduct requirements.</p> <p>The MPFA will continue with its efforts to assist scheme members in making informed decisions.</p>
	<ul style="list-style-type: none"> ■ A respondent is of the view that consideration should be given to introduce cooling-off period where appropriate to protect scheme members, on the ground that a cooling-off period can minimize subsequent complaints as a result of improper sales practices. 	<p>The existing Cooling-off Period imposed by HKMA and SFC offers additional protection to customers in respect of financial products like derivatives that are not listed on an exchange in Hong Kong and investment-linked long term insurance policies which have impediments to reversing an investment decision therein. The nature of MPF products is different from those to which the Cooling-off Period is applicable. MPF products are generally of a lower risk and members who wish to change their minds can readily join another scheme or switch to another MPF fund, most of which are traded on</p>

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		daily basis.
E-platform	<ul style="list-style-type: none"> ■ A respondent takes the view that the cost-sharing among trustees should be based on their respective volumes of transactions instead of equal sharing. ■ A respondent is concerned about the cost-effectiveness of the proposed e-platform, the ongoing operation and maintenance costs of which will eventually be passed onto scheme members. 	<p>In the Consultation Paper, we have put forward legislative proposals for the MPFA to establish and operate an electronic transfer system (i.e. the E-platform) and mandate the use of the E-platform by trustees in processing scheme members' election for transfer of accrued benefits in light of the possible increase in the number of elections upon the implementation of ECA. The MPFA will bear the costs of developing and establishing the E-platform. The proposed legislation will provide for the charging of a fee for each transaction to be payable by the relevant trustees to the MPFA. The fee will be determined with reference to the costs likely to be incurred by the MPFA in the transfer process. The legislation will also provide for the charging of other fees on relevant trustees to recover the costs incurred by the MPFA for payment to any third party in relation to the operation of the system.</p> <p>To facilitate smooth transition at the early stage of the implementation of the ECA, the MPFA will initially provide the E-platform service at no cost to the industry</p>

Issues	Comments Received	Response from the Administration and the MPFA
		and will continue to liaise with trustees on when and how much to charge per transaction after implementation.
	<ul style="list-style-type: none"> ■ A respondent opined that, as a value-added feature, scheme members should be allowed to access the e-platform to keep track of their fund transfer status and if possible to view a consolidated record of their various fund accounts. 	The MPFA has been working with the trustees on system development for the E-platform for some time. The possibility of developing another platform to facilitate enquiries from members is under consideration by the MPFA, as an exercise separate from the proposed E-platform.
Enhancement of deterrent against default contributions by employers	<ul style="list-style-type: none"> ■ Those respondents who have commented on this proposal have indicated support. 	We welcome the support for this proposal for better protection of employees' interests.

**Financial Services and the Treasury Bureau
Mandatory Provident Fund Schemes Authority
29 July 2011**