

# **MPF Intermediaries Examination**

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## **Study Notes**

Seventh Edition  
October 2009

## Update

### Amendment of the Minimum and Maximum Levels of Relevant Income for MPF Contributions

#### Increase in the Minimum Level of Relevant Income for MPF Contributions to HK\$6,500 (Effective 1 November 2011)

The minimum level of relevant income in respect of Mandatory Provident Fund (MPF) contributions has been increased to **HK\$6,500**, effective **1 November 2011**, from the original level of HK\$5,000. For the contribution periods starting on or after the effective date, employees with a monthly relevant income of less than HK\$6,500 are not required to contribute, but their employers must make the employer's contribution. Self-employed persons with a relevant income of less than HK\$6,500 per month or HK\$78,000 per year do not have to make contributions.

#### Increase in the Maximum Level of Relevant Income for MPF Contributions to HK\$25,000 (Effective 1 June 2012)

The maximum level of relevant income in respect of MPF contributions has been increased to **HK\$25,000**, effective **1 June 2012**, from the original level of HK\$20,000. Key points about the amendment are as below:

- For monthly-paid regular employees, the maximum level of relevant income has been amended from HK\$20,000 to **HK\$25,000** monthly. The maximum contributions will be adjusted from HK\$1,000 to **HK\$1,250** monthly accordingly.
- For self-employed persons, the maximum level of relevant income has been amended from HK\$20,000 to **HK\$25,000** monthly and from HK\$240,000 to **HK\$300,000** yearly. The maximum contributions will be adjusted from HK\$1,000 to **HK\$1,250** monthly or from HK\$12,000 to **HK\$15,000** yearly accordingly.

#### Contribution tables after the increase in the minimum and maximum levels of relevant income

##### (1) Regular employees and self-employed persons

##### Monthly paid regular employees and their respective employers

Monthly relevant income HK\$	Mandatory contribution amount HK\$	
	Employer's contribution	Employee's contribution
Less than 6,500	Relevant income x 5%	Not required
6,500 - <b>25,000</b>	Relevant income x 5%	Relevant income x 5%
More than <b>25,000</b>	<b>1,250</b>	<b>1,250</b>

##### Self-employed persons

Relevant income HK\$		Mandatory contribution amount HK\$
Monthly	Yearly	
Less than 6,500	Less than 78,000	Not required
6,500 - <b>25,000</b>	78,000 - <b>300,000</b>	Relevant income x 5%
More than <b>25,000</b>	More than <b>300,000</b>	<b>1,250</b> (per month) or <b>15,000</b> (per year)

**(2) Casual employees in the catering and construction industries enrolled in MPF Industry Schemes**

<b>Daily paid casual employees and their employers</b>			<b>Non-daily paid casual employees and their employers (e.g. paid on a weekly or bi-weekly basis)</b>		
<b>Daily relevant income HK\$</b>	<b>Mandatory contribution amount HK\$</b>		<b>Average daily relevant income* HK\$</b>	<b>Mandatory contribution amount HK\$</b>	
	<b>Employer's contribution</b>	<b>Employee's contribution</b>		<b>Employer's contribution</b>	<b>Employee's contribution</b>
Less than 250	7.5	Not required	Less than 250	Relevant income x 5%	Not required
250 or more but less than 260	13	13	250 to <b>830</b>	Relevant income x 5%	Relevant income x 5%
260 or more but less than 390	15	15			
390 or more but less than 520	22.5	22.5			
520 to 650	30	30			
More than 650 to <b>830</b>	<b>37.5</b>	<b>37.5</b>			
<b>More than 830</b>	<b>41.5</b>	<b>41.5</b>	<b>More than 830</b>	<b><u>41.5 per day</u></b>	<b><u>41.5 per day</u></b>

\*For the calculation of average daily relevant income, please refer to the “MPF Industry Schemes” leaflet.

For ease of reference, changes to the Study Notes for the MPF Intermediaries Examination (Seventh Edition) relating to **increase in the minimum level of relevant income for MPF contributions to HK\$6,500 (effective 1 November 2011)** and **increase in the maximum level of relevant income for MPF contributions to HK\$25,000 (effective 1 June 2012)** are set out below. **Please note that for examination sessions to be conducted from 1 June 2012 onwards, the examination questions will be based on the updated version of the Study Notes\*.**

Sections	Version for exam before 1 Jun 2012	*Version for exam on or after 1 Jun 2012																								
3.6.2(a) Duties of Self-employed Persons <i>Page 3/7</i>	However, they are only required to contribute if they are earning HK\$6500 or more a month or HK\$78,000 or more a year.	However, they are only required to contribute if they are earning HK\$6,500 or more a month or HK\$78,000 or more a year.																								
3.7.1(a) (i) Mandatory Contributions (In Respect of Employees – The amount) <i>Page 3/8</i>	Relevant Employees																									
	Employees earning less than HK\$6,500 a month do not need to contribute but their employers are still required to contribute 5% of the employees' relevant income. For an employee earning more than HK\$20,000 a month, mandatory contributions are capped at HK\$1,000 for the employer and the employee respectively.	Employees earning less than HK\$6,500 a month do not need to contribute but their employers are still required to contribute 5% of the employees' relevant income. For an employee earning more than <b>HK\$25,000</b> a month, mandatory contributions are capped at <b>HK\$1,250</b> for the employer and the employee respectively.																								
3.7.1(a) (i) Mandatory Contributions (In Respect of Employees – The amount) <i>Page 3/8</i>	Non-Daily paid Casual Employees																									
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3.7.1(a) (i) Mandatory Contributions (In Respect of Employees – The amount) <i>Page 3/9</i>	Daily paid Casual Employees							
	Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contributions HK\$	Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contributions HK\$
	Below 250	7.5	No contribution required	7.5	Below 250	7.5	No contribution required	7.5
	250 – below 260	13	13	26	250 – below 260	13	13	26
	260 – below 390	15	15	30	260 – below 390	15	15	30
	390 – below 520	22.5	22.5	45	390 – below 520	22.5	22.5	45
	520 – not more than 650	30	30	60	<b><u>520 – 650</u></b>	<b><u>30</u></b>	<b><u>30</u></b>	<b><u>60</u></b>
	Over 650	30	30	60	<b><u>Over 650 – 830</u></b>	<b><u>37.5</u></b>	<b><u>37.5</u></b>	<b><u>75</u></b>
					<b><u>Over 830</u></b>	<b><u>41.5</u></b>	<b><u>41.5</u></b>	<b><u>83</u></b>
	3.7.1(a) (x) Mandatory Contributions (In Respect of Employees – Minimum relevant income) <i>Page 3/12</i>	Even if the relevant income of an employee is less than <b>HK\$6,500</b> per month, the employer must still pay a 5% mandatory contribution.				Even if the relevant income of an employee is less than <b>HK\$6,500</b> per month, the employer must still pay a 5% mandatory contribution.		
3.7.1(a) (xi) Mandatory Contributions (In Respect of Employees – Maximum relevant income) <i>Page 3/12</i>	If the relevant income of an employee is more than <b>HK\$20,000</b> per month, the mandatory contributions for both the employer and employee are limited to <b>HK\$1,000</b> each (i.e. 5% of HK\$20,000).				If the relevant income of an employee is more than <b>HK\$25,000</b> per month, the mandatory contributions for both the employer and employee are limited to <b>HK\$1,250</b> each (i.e. 5% of <b>HK\$25,000</b> ).			

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3.7.1(b) (iii) Mandatory Contributions (In Respect of Self-employed Persons – Relevant income) <i>Page 3/13</i>	This is linked to the assessable profits for the preceding year of assessment that is calculated in accordance with the Inland Revenue Ordinance. The self-employed person is required to produce evidence of relevant income to the trustee, but is not required to do so if the <b>maximum</b> mandatory contribution of <b>HK\$1,000</b> a month or <b>HK\$12,000</b> a year is paid.	This is linked to the assessable profits for the preceding year of assessment that is calculated in accordance with the Inland Revenue Ordinance. The self-employed person is required to produce evidence of relevant income to the trustee, but is not required to do so if the <b>maximum</b> mandatory contribution of <b>HK\$1,250</b> a month or <b>HK\$15,000</b> a year is paid.
3.7.1(b) (iv) Mandatory Contributions (In Respect of Self-employed Persons – Ascertainment of “relevant income”) <i>Page 3/13</i>	If the self-employed person cannot produce any evidence and the trustee is not satisfied with the reason for not doing so, the relevant income will be taken as HK\$240,000 a year.	If the self-employed person cannot produce any evidence and the trustee is not satisfied with the reason for not doing so, the relevant income will be taken as <b>HK\$300,000</b> a year.
3.7.1(b) (v) Mandatory Contributions (In Respect of Self-employed Persons – Negative income) <i>Page 3/13</i>	Mandatory contributions should be resumed when the self-employed person’s relevant income exceeds the minimum level (i.e. HK\$78,000 yearly).	Mandatory contributions should be resumed when the self-employed person’s relevant income exceeds the minimum level (i.e. HK\$78,000 yearly).
3.7.1(b) (vi) Mandatory Contributions (In Respect of Self-employed Persons – Minimum and maximum levels) <i>Page 3/14</i>	For a self-employed person, the minimum level of relevant income for mandatory contribution purposes is <b>HK\$6,500</b> per month or <b>HK\$78,000</b> per year. The <b>maximum</b> level is <b>HK\$20,000</b> per month or <b>HK\$240,000</b> per year. <ul style="list-style-type: none"> <li>• Minimum relevant income = <b>HK\$78,000</b> x DC/365</li> <li>• Maximum relevant income = <b>HK\$240,000</b> x DC/365</li> </ul>	For a self-employed person, the minimum level of relevant income for mandatory contribution purposes is <b>HK\$6,500</b> per month or <b>HK\$78,000</b> per year. The <b>maximum</b> level is <b>HK\$25,000</b> per month or <b>HK\$300,000</b> per year. <ul style="list-style-type: none"> <li>• Minimum relevant income = <b>HK\$78,000</b> x DC/365</li> <li>• Maximum relevant income = <b>HK\$300,000</b> x DC/365</li> </ul>

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3.7.1(c) (vi) Mandatory Contributions (Examples to Demonstrate the Application of the Above Rules – Relevant income: HK\$30,000 per month, Employee) <i>Page 3/16</i>	Contribution by the employee and the employer limited to HK\$1,000 each (5% of HK\$20,000 maximum level of income for contribution purpose).	Contribution by the employee and the employer limited to <b>HK\$1,250</b> each (5% of <b>HK\$25,000</b> maximum level of income for contribution purpose).
3.7.1(c) (vi) Mandatory Contributions (Examples to Demonstrate the Application of the Above Rules – Relevant income: HK\$30,000 per month, Self-employed person) <i>Page 3/17</i>	Contribution of HK\$1,000 each (5% of HK\$20,000 maximum level of income for contribution purpose).	Contribution of <b>HK\$1,250</b> each (5% of <b>HK\$25,000</b> maximum level of income for contribution purpose).
3.7.3(a) Tax Allowance <i>Page 3/18</i>	<b>Mandatory</b> contributions made by an employee are tax deductible, but subject to the maximum contribution of <b>HK\$12,000</b> per year;	<b>Mandatory</b> contributions made by an employee are tax deductible, but subject to the maximum contribution of <b>HK\$15,000</b> per year;
Representative Examination Questions (Type “B” Questions) <i>Page 3/26</i>	3. Which two of the following represent the limits of “relevant income”, for the purposes of an employee’s mandatory contribution to an MPF scheme? (i) Minimum relevant income level - HK\$5,000 per month (ii) Minimum relevant income level - HK\$6,500 per month (iii) Maximum relevant income level - HK\$20,000 per month (iv) Maximum of HK\$30,000 per month  (Correct Answer to the Question is (c))	3. Which two of the following represent the limits of “relevant income”, for the purposes of an employee’s mandatory contribution to an MPF scheme? (i) Minimum relevant income level - HK\$5,000 per month (ii) Minimum relevant income level - HK\$6,500 per month (iii) Maximum relevant income level - <b>HK\$25,000</b> per month (iv) Maximum of HK\$30,000 per month  (Correct Answer to the Question is (c))
Representative Examination Questions (Type “B” Questions) <i>Page 3/27</i>	5. Which <b>three</b> of the following statements are correct in relation to the tax situation with MPF contributions and benefits? (iii) employee’s mandatory contributions are tax deductible (limited to HK\$12,000 per year)	5. Which <b>three</b> of the following statements are correct in relation to the tax situation with MPF contributions and benefits? (iii) employee’s mandatory contributions are tax deductible (limited to <b>HK\$15,000</b> per year)

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6.5.3(b) New Eligible Employees Opting to Join An MPF Exempted ORSO Registered Scheme <i>Page 6/7</i>	<p>“Minimum MPF benefits” is defined as the lesser of:</p> <p>(a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme;</p> <p>(b) 1.2 x final average monthly relevant income (capped by HK\$20,000) x years of post-MPF service<sup>4</sup>.</p>	<p>“Minimum MPF benefits” is defined as the lesser of:</p> <p>(a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme;</p> <p>(b) 1.2 x final average monthly relevant income (capped by <b><u>HK\$25,000</u></b>) x years of post-MPF service<sup>4</sup>.</p>
Appendix VI MPF Guide for Employees and Employers (Notes for Employees)** <i>Page AVI/3</i>	<p>Mandatory contributions are subject to minimum and maximum levels of income. Employees earning less than HK\$6,500 a month do not need to contribute but their employers have to contribute 5% of the employees’ income. For employees earning more than HK\$20,000 a month, mandatory contributions are capped at HK\$1,000.</p>	<p>Mandatory contributions are subject to minimum and maximum levels of income. Employees earning less than HK\$6,500 a month do not need to contribute but their employers have to contribute 5% of the employees’ income. For employees earning more than <b><u>HK\$25,000</u></b> a month, mandatory contributions are capped at <b><u>HK\$1,250</u></b>.</p>
Appendix VII MPF Guide for the Self-Employed <i>Page AVII/1</i>	<p>The SEP needs to prepare for calculation of his “relevant income” and payment of MPF contributions. The contribution amount is 5% of the SEP’s relevant income. The maximum level of the “relevant income” is HK\$240,000 while the minimum level is HK\$78,000 per annum. The SEP can calculate his relevant income by the following means:</p> <ul style="list-style-type: none"> <li>- contribute the maximum amount of HK\$1,000 per month or HK\$12,000 per annum;</li> </ul>	<p>The SEP needs to prepare for calculation of his “relevant income” and payment of MPF contributions. The contribution amount is 5% of the SEP’s relevant income. The maximum level of the “relevant income” is <b><u>HK\$300,000</u></b> while the minimum level is HK\$78,000 per annum. The SEP can calculate his relevant income by the following means:</p> <ul style="list-style-type: none"> <li>- contribute the maximum amount of <b><u>HK\$1,250</u></b> per month or <b><u>HK\$15,000</u></b> per annum;</li> </ul>
Appendix VII MPF Guide for the Self-Employed (Suspension of contributions) <i>Page AVII/2</i>	<p>If an SEP’s business sustains a net loss during <b>a financial period</b>, he may discontinue payment of mandatory contributions until the “relevant income” derived from his business exceeds the minimum level of HK\$6,500 per month or HK\$78,000 per year.</p>	<p>If an SEP’s business sustains a net loss during <b>a financial period</b>, he may discontinue payment of mandatory contributions until the “relevant income” derived from his business exceeds the minimum level of HK\$6,500 per month or HK\$78,000 per year.</p>
Appendix X – Frequently Asked Questions and Answers on MPF System (Contributions – By Self-employed Persons) A.13 <i>Page AX/11</i>	<p>A self-employed person is required to contribute 5% of his relevant income as the mandatory contribution. The relevant income is subject to maximum (HK\$20,000 a month or HK\$240,000 a year) and minimum (HK\$6,500 a month or HK\$78,000 a year) income levels. If you earn less than HK\$6,500 a month or HK\$78,000 a year, you are not required to contribute.</p>	<p>A self-employed person is required to contribute 5% of his relevant income as the mandatory contribution. The relevant income is subject to maximum (<b><u>HK\$25,000</u></b> a month or <b><u>HK\$300,000</u></b> a year) and minimum (HK\$6,500 a month or HK\$78,000 a year) income levels. If you earn less than HK\$6,500 a month or HK\$78,000 a year, you are not required to contribute.</p>

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Appendix X – Frequently Asked Questions and Answers on MPF System (Industry Schemes – By Employees) A.9 <i>Page AX/21</i>	The scale of contributions designed for employees who are paid on a daily basis is as follows: <table border="1" data-bbox="481 363 1263 933"> <thead> <tr> <th>Daily Income HK\$</th> <th>Employer's Contribution HK\$</th> <th>Employee's Contribution HK\$</th> <th>Total Contribution HK\$</th> </tr> </thead> <tbody> <tr> <td>Below 250</td> <td>7.5</td> <td>No contribution required</td> <td>7.5</td> </tr> <tr> <td>250 – below 260</td> <td>13</td> <td>13</td> <td>26</td> </tr> <tr> <td>260 – below 390</td> <td>15</td> <td>15</td> <td>30</td> </tr> <tr> <td>390 – below 520</td> <td>22.5</td> <td>22.5</td> <td>45</td> </tr> <tr> <td>520 – not more than 650</td> <td>30</td> <td>30</td> <td>60</td> </tr> <tr> <td>Over 650</td> <td>30</td> <td>30</td> <td>60</td> </tr> </tbody> </table>	Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contribution HK\$	Below 250	7.5	No contribution required	7.5	250 – below 260	13	13	26	260 – below 390	15	15	30	390 – below 520	22.5	22.5	45	520 – not more than 650	30	30	60	Over 650	30	30	60	The scale of contributions designed for employees who are paid on a daily basis is as follows: <table border="1" data-bbox="1294 328 2069 970"> <thead> <tr> <th>Daily Income HK\$</th> <th>Employer's Contribution HK\$</th> <th>Employee's Contribution HK\$</th> <th>Total Contribution HK\$</th> </tr> </thead> <tbody> <tr> <td>Below 250</td> <td>7.5</td> <td>No contribution required</td> <td>7.5</td> </tr> <tr> <td>250 – below 260</td> <td>13</td> <td>13</td> <td>26</td> </tr> <tr> <td>260 – below 390</td> <td>15</td> <td>15</td> <td>30</td> </tr> <tr> <td>390 – below 520</td> <td>22.5</td> <td>22.5</td> <td>45</td> </tr> <tr> <td><b><u>520 – 650</u></b></td> <td><b><u>30</u></b></td> <td><b><u>30</u></b></td> <td><b><u>60</u></b></td> </tr> <tr> <td><b><u>Over 650 – 830</u></b></td> <td><b><u>37.5</u></b></td> <td><b><u>37.5</u></b></td> <td><b><u>75</u></b></td> </tr> <tr> <td><b><u>Over 830</u></b></td> <td><b><u>41.5</u></b></td> <td><b><u>41.5</u></b></td> <td><b><u>83</u></b></td> </tr> </tbody> </table>				Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contribution HK\$	Below 250	7.5	No contribution required	7.5	250 – below 260	13	13	26	260 – below 390	15	15	30	390 – below 520	22.5	22.5	45	<b><u>520 – 650</u></b>	<b><u>30</u></b>	<b><u>30</u></b>	<b><u>60</u></b>	<b><u>Over 650 – 830</u></b>	<b><u>37.5</u></b>	<b><u>37.5</u></b>	<b><u>75</u></b>	<b><u>Over 830</u></b>	<b><u>41.5</u></b>	<b><u>41.5</u></b>	<b><u>83</u></b>
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Appendix X – Frequently Asked Questions and Answers on MPF System (Industry Schemes – By Employees) A.9 Page AX/22	<p>For casual employees who are not paid on a daily basis (e.g. on a weekly or bi-weekly basis), both the employee and the employer are required to contribute 5% of the employee's income:</p> <table border="1" data-bbox="488 371 1256 719"> <thead> <tr> <th>Average daily income HK\$</th> <th>Employer's Contribution HK\$</th> <th>Employee's Contribution HK\$</th> </tr> </thead> <tbody> <tr> <td>Below 250</td> <td>5% of employee's relevant income</td> <td>No contribution required</td> </tr> <tr> <td>250 – 650</td> <td>5% of employee's relevant income</td> <td>5% of employee's relevant income</td> </tr> <tr> <td>Over 650</td> <td>32.5 per day</td> <td>32.5 per day</td> </tr> </tbody> </table>	Average daily income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Below 250	5% of employee's relevant income	No contribution required	250 – 650	5% of employee's relevant income	5% of employee's relevant income	Over 650	32.5 per day	32.5 per day	<p>For casual employees who are not paid on a daily basis (e.g. on a weekly or bi-weekly basis), both the employee and the employer are required to contribute 5% of the employee's income:</p> <table border="1" data-bbox="1301 371 2069 719"> <thead> <tr> <th>Average daily income HK\$</th> <th>Employer's Contribution HK\$</th> <th>Employee's Contribution HK\$</th> </tr> </thead> <tbody> <tr> <td>Below 250</td> <td>5% of employee's relevant income</td> <td>No contribution required</td> </tr> <tr> <td>250 – <b>830</b></td> <td>5% of employee's relevant income</td> <td>5% of employee's relevant income</td> </tr> <tr> <td><b>Over 830</b></td> <td><b>41.5 per day</b></td> <td><b>41.5 per day</b></td> </tr> </tbody> </table>	Average daily income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Below 250	5% of employee's relevant income	No contribution required	250 – <b>830</b>	5% of employee's relevant income	5% of employee's relevant income	<b>Over 830</b>	<b>41.5 per day</b>	<b>41.5 per day</b>
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	<p>The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a casual employee who is a member of an industry scheme, \$650 per day.</p>	<p>The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a casual employee who is a member of an industry scheme, <b>\$830</b> per day.</p>																								
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<p>The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a self-employed person, \$20,000 per month or \$240,000 per year.</p>	<p>The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a self-employed person, <b>\$25,000</b> per month or <b>\$300,000</b> per year.</p>																									

Sections	Version for exam before 1 Jun 2012	*Version for exam on or after 1 Jun 2012
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	The “minimum MPF benefits” is defined as the lesser of (a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme; or (b) 1.2 x final average monthly relevant income (capped at \$20,000) x years of post-MPF service.	The “minimum MPF benefits” is defined as the lesser of (a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme; or (b) 1.2 x final average monthly relevant income (capped at <b>\$25,000</b> ) x years of post-MPF service.
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April 2012

# **PREFACE**

*to the*

## **STUDY NOTES**

*These Study Notes have been prepared to correspond with the various Chapters in the Syllabus for the Mandatory Provident Fund Schemes Examination. The Examination will be based upon these Notes. A few representative examination questions are included at the end of each Chapter, for your further guidance.*

*Though the Study Notes are primarily prepared for the Mandatory Provident Fund Schemes Examination paper under the Insurance Intermediaries Quality Assurance Scheme conducted by the Vocational Training Council, they are also relevant to the MPF Intermediaries Examination conducted by the Hong Kong Securities Institute. Both examinations are based on the same syllabus and are recognized by the Mandatory Provident Fund Schemes Authority for the purpose of enabling candidates to meet the examination requirement for registration as an MPF intermediary.*

*We hope that these Study Notes serve as useful reference materials for candidates preparing for the Examination. Whilst every care has been taken in the preparation of the Study Notes, there may still be errors or omissions. You should therefore also refer to the relevant legislation and consult your own professional advisers. As further editions may be published from time to time to update and improve the contents of these Study Notes, we would appreciate your feedback, which will be taken into consideration when we prepare the next edition of the Notes.*

*First Edition: June 1999*

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## **NOTE**

*For study purposes, it is important to be aware of the relative “weight” of the various Chapters in relation to the Examination. All Chapters should be studied carefully, but the following table indicates areas of particular importance:*

<b>Chapter</b>	<b>Relative Weight</b>
1. Introduction to the Mandatory Provident Fund (“MPF”) System	1 %
2. Regulatory Framework	7 %
3. Key Features of the MPF System (including Appendices III, IV, V, VI, VII, X)	55 %
4. MPF Trustees	9 %
5. MPF Schemes and Investment (including Appendix VIII)	13 %
6. Interface Arrangements between ORSO Schemes and the MPF System (including Appendix X)	5 %
7. MPF Intermediaries (including the Code of Conduct for MPF Intermediaries)	10 %
<b>Total</b>	<b>100%</b>

# 1 INTRODUCTION TO THE MANDATORY PROVIDENT FUND (“MPF”) SYSTEM

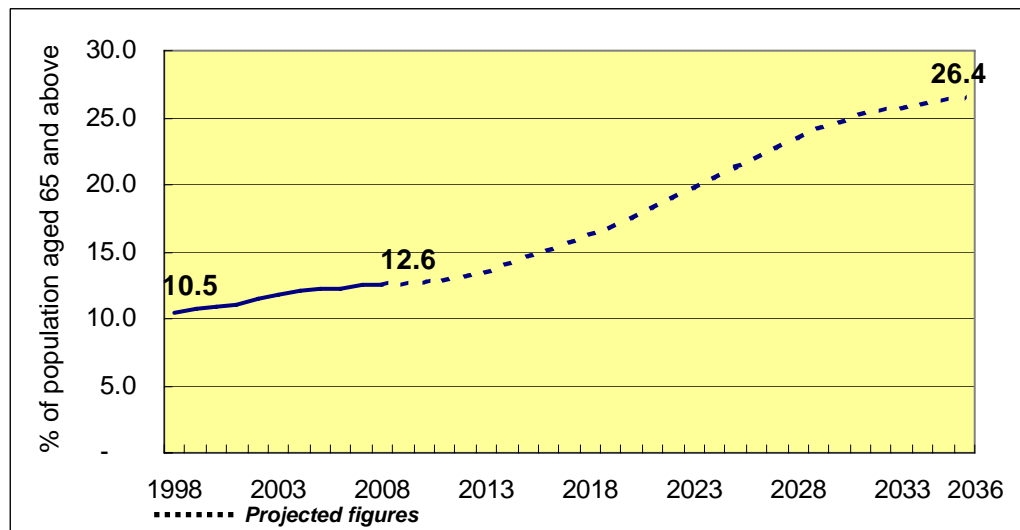
## 1.1 NEED FOR RETIREMENT PROTECTION

The world today is very different from that say 50 years ago. Nowadays, many places in the world have a rapidly ageing population problem. Saving for your future is not just a wise saying - it is prudent and essential to do so.

### 1.1.1 Ageing Population

Hong Kong has a rapidly ageing population. In 1998 and 2008, people aged 65 and above accounted for about 10.5% and 12.6% respectively of the population. This proportion is forecast to increase to 26.4% by 2036.

**Fig. 1.1.1 Percentage of Population Aged 65 and above**



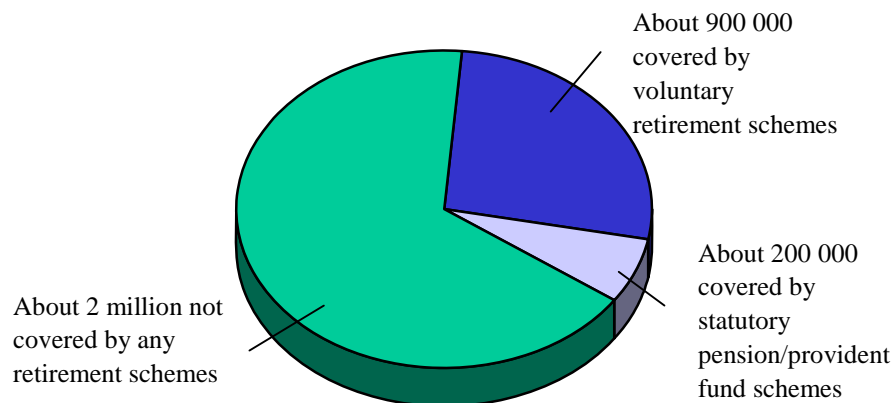
Source: Census and Statistics Department, HKSAR

Financial provision for the aged had become a major concern for many communities. It was clear that the problem had to be addressed; otherwise it would exert an intolerable strain on the public purse in a very short period of time.

### 1.1.2 Retirement Protection Prior to the Introduction of the MPF System

Prior to the introduction of the MPF System, only about one-third of the nearly three million workforce in Hong Kong enjoyed some form of retirement protection or provision. Retirement protection generally took the form of statutory pension and provident fund schemes or retirement schemes voluntarily established by employers and registered under the Occupational Retirement Schemes Ordinance.

**Fig.1.1.2 Retirement Protection for the Working Population  
(as at 31.12.1999)**



## 1.2 WHY MPF?

Before addressing this question, perhaps we should define the terms, so that the discussion is understood clearly. Let us look at the words “Mandatory Provident Fund” separately:

**“Mandatory”** means that the scheme is compulsory (not optional), for all within its designated scope, unless specifically exempted;

**“Provident”** means prudent provision for the future, following the identification of a need;

**“Fund”** means collection of money or other financial provisions, set aside for a designated purpose.

The MPF is the result of many years of debate. Over many years, much has been discussed in Hong Kong about the best way to provide financial security for elderly people. The Old Age Pension System and Central Provident Fund have been widely discussed and retirement protection systems of different countries have been studied in order to devise a retirement system which could best suit Hong Kong’s needs. Finally, MPF found support within the community and was seen to be a practical way forward to help the labour force provide for themselves in their retirement years.

### 1.2.1 Three Pillars for Old Age Protection

We mentioned earlier that ageing is a global phenomenon, not just a Hong Kong issue. Considerable international research and debate was taken place to try to develop suitable solutions particularly, on the funding issue. One such example is the **World Bank Report “Averting the Old-Age Crisis”**, published in 1994, which recommended that any devised scheme should endeavour to:

- (a) protect the old;

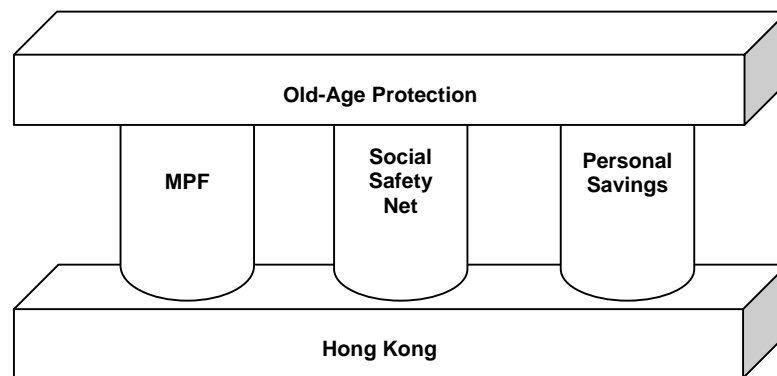
- (b) promote economic growth.

The World Bank Report went on to recommend that three “pillars” (underlying supports) should feature in any old age protection programme. These are:

- (a) a mandatory (compulsory), privately managed and fully funded contribution scheme;
- (b) a publicly managed, tax financed, social safety net for the old; and
- (c) voluntary personal savings and insurance.

Hong Kong has for some time operated a Comprehensive Social Security Assistance Scheme, offering basic social security to the needy. Also, personal savings have traditionally been a feature of Hong Kong society. The introduction of MPF to Hong Kong completes the provision of the recommended “**Three Pillars**”.

**Fig. 1.2.1 Three Pillars for Old Age Protection**



### **1.2.2 Advantages of MPF**

Advantages of the MPF system are summarized as follows:

- (a) **It is equitable**

MPF is equitable to all scheme members, as the amount of accrued benefits is directly related to the contributions made. This also serves as a positive incentive for scheme members to make additional voluntary contributions so as to accrue more benefits for their retirement.

- (b) **It is cost-effective**

MPF schemes are privately managed under a free competition environment. Competition tends to increase efficiency and reduce costs, which will benefit scheme members.

(c) **It meets Hong Kong's needs**

Hong Kong has a well-established and sound financial services sector. A privately managed retirement system under prudential regulation and supervision is the most effective and secure way to offer retirement protection to the workforce.

### **1.3 MPF'S ECONOMIC IMPACT**

Whilst the main beneficiaries of the MPF system are members of the workforce, as originally intended, the introduction of the system also has a positive impact on the Hong Kong economy. During the planning stage, it was estimated that annual MPF contributions in the initial years of operation would be more than **HK\$10 billion**. The annual MPF contribution in 2008 is about HK\$35 billion. This figure gives rise to a number of considerations, including:

- (a) whilst in one sense not “new money”, MPF contributions effectively gather together substantial funds not previously available for investment purposes on such a large scale;
- (b) the significant amount of retirement assets adds impetus to the further development of Hong Kong's financial markets;
- (c) specially, as MPF is a long-term investment, there is an increased demand for quality bonds meeting minimum investment grade ratings given by recognized rating agencies. Demand will also increase for equities and other investment products;
- (d) new challenges and opportunities for the financial services sector are created;
- (e) all MPF scheme assets must be under the custody of qualified institutions. This leads to increased demand for custodial services, investment management and schemes administration; and
- (f) all qualified local and overseas service providers are able to participate in the new MPF business on a “level playing field”.

- o - o - o -

## ***Representative Examination Questions***

*The examination will consist of 80 multiple-choice questions. The majority of the questions will be straightforward, involving a simple choice from four alternatives. These we call **Type “A” Questions**. A selection of the questions (about 20%) will be slightly more complex, but again involving a choice between four alternatives. These we call **Type “B” Questions**. Examples of each are shown below.*

### **Type “A” Questions**

- 1 In 1998, what was the approximate percentage of the population of Hong Kong that was aged 65 or above?
- (a) 10.5%; .....
  - (b) 12.6%; .....
  - (c) 18.4%; .....
  - (d) 26.4%. .....
- [Answer is in **1.1.1**]

- 2 Prior to the implementation of MPF, Hong Kong had a workforce of around three million. Approximately how many of them had some form of retirement protection?
- (a) none; .....
  - (b) all of them; .....
  - (c) approximately one million; .....
  - (d) approximately two million. ....
- [Answer is in **1.1.2**]

### **Type “B” Questions**

- 3 According to the 1994 World Bank Report, which two of the following were said to be desirable features for any scheme to avert the old-age crisis?
- (i) it should protect the old
  - (ii) it should protect the young
  - (iii) it should not be too expensive
  - (iv) it should promote economic growth
- (a) (i) and (ii); .....
  - (b) (i) and (iv); .....
  - (c) (ii) and (iii); .....
  - (d) (ii) and (iv). .....
- [Answer is in **1.2.1**]

4 Which three of the following were claimed to be advantages of the MPF System for Hong Kong?

- (i) it will be equitable
- (ii) it will meet local needs
- (iii) it will be cost-effective
- (iv) it will be profitable for providers

- (a) (i), (ii) and (iii); .....
- (b) (i), (ii) and (iv); .....
- (c) (i), (iii) and (iv); .....
- (d) (ii), (iii) and (iv). .....

[Answer is in **1.2.2**]

*Note : The answers can be found by reference to Chapter 1 of the Study Notes. If required, however, you can find them at the end of the Study Notes.*

## **2 REGULATORY FRAMEWORK**

In August 1995, Hong Kong took a major step in enacting the Mandatory Provident Fund Schemes Ordinance (“MPFSO”) to provide a formal system of retirement protection. In 1998, amendments to the MPFSO and two pieces of subsidiary legislation, namely the Mandatory Provident Fund Schemes (General) Regulation and the Mandatory Provident Fund Schemes (Exemption) Regulation were enacted. In 1999, the Mandatory Provident Fund Schemes (Fees) Regulation was enacted.

### **2.1 MANDATORY PROVIDENT FUND SCHEMES AUTHORITY (“MPFA”)**

Pursuant to the MPFSO, the MPFA was established in September 1998 to ensure compliance with the MPFSO and to regulate, supervise and monitor the operation of the MPF system. It says in its **mission statement**:

“To ensure the provision of retirement protection for Hong Kong’s workforce through an effective and efficient system of prudential regulation and supervision of privately managed provident fund schemes.”

With the amendment to the Occupational Retirement Schemes Ordinance (“ORSO”) in 1998, the MPFA was also designated as the Registrar of Occupational Retirement Schemes. On 10 January 2000, it formally took over the functions of the Registrar of Occupational Retirement Schemes from the Office of the Registrar of Occupational Retirement Schemes.

#### **2.1.1 Functions of the MPFA**

As provided under the MPFSO, the functions of the MPFA include:

- (a) ensuring compliance with MPF legislation;
- (b) registering MPF schemes and approving MPF funds;
- (c) approving trustees;
- (d) regulating the affairs and activities of approved trustees;
- (e) overseeing the administration and management of registered schemes and MPF investment funds;
- (f) issuing guidelines to assist the industry to comply with MPF legislation;
- (g) proposing legislative reforms relating to occupational retirement schemes or provident fund schemes; and
- (h) promoting the development of the retirement schemes industry in Hong Kong.

### **2.1.2 Organization Structure of the MPFA**

The work of the MPFA is overseen by a Management Board consisting of the Chairman of the MPFA, non-executive directors and not fewer than four executive directors. A majority of the directors are non-executive directors. The MPFA is advised by an MPF Schemes Advisory Committee. There are also a number of supporting committees which give advice and assistance to the MPFA on various aspects of its management and regulatory work.

The MPFA is headed by a Managing Director. There are five major divisions and three major units in the MPFA, namely, the Supervision Division, the Enforcement Division, the Regulation and Policy Division, the External Affairs Division, the Corporate Services Division, the Liaison Unit, the Risk Management Unit and the Business Systems Development Unit. The Supervision Division is responsible for the approval/registration of trustees, MPF schemes and investment funds, intermediaries and ORSO schemes and on-going monitoring of their compliance. The Enforcement Division is responsible for enrolment and member protection issues, inspection, investigation, claims and prosecution.

The Regulation and Policy Division is responsible for policy and legislative matters and for the development of investment regulations. The Corporate Services Division is responsible for corporate affairs, general administration, human resources, financial control, treasury and information systems. The External Affairs Division is responsible for publicity, public education, and press/media/community relations.

The Liaison Unit is responsible for liaison and networking matters, servicing the Industry Schemes Committee, handling complaints and enquiries and customer services. The Risk Management Unit is responsible for risk management, internal audit and management reviews. The Business Systems Development Unit is responsible for business system matters and systems development.

## **2.2 OTHER REGULATORS**

The MPFA is the **lead regulator** for the MPF system. However, the Securities and Futures Commission, the Insurance Authority and the Monetary Authority also have key roles to play in the regulation of MPF products and service providers.

### **2.2.1 Securities and Futures Commission (“SFC”)**

The main functions of the SFC, in respect of MPF, are to:

- (a) authorize MPF schemes (including their constituents funds) and pooled investment funds through vetting/authorizing the disclosure of information in the offering documents and marketing materials relating to MPF products;
- (b) license certain service providers, including investment managers responsible for the management of investment portfolios and custodians engaging in

securities lending; and

- (c) regulate MPF intermediaries that are licensed by or registered with it, in relation to the conduct by them of the regulated activity for which they are licensed or registered under the Securities and Futures Ordinance.

### **2.2.2 Insurance Authority (“IA”)**

The main functions of the IA, in relation to MPF, are to:

- (a) ensure that insurance companies engaging in MPF services operate properly, with sufficient assets to meet their liabilities as stipulated under the Insurance Companies Ordinance; and
- (b) monitor MPF intermediaries, who are qualified under the insurance regulatory regime, together with the Insurance Agents Registration Board set up by The Hong Kong Federation of Insurers, The Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.

**Note:** The Commissioner of Insurance is appointed as the Insurance Authority for the purposes of the Insurance Companies Ordinance to regulate and supervise the insurance industry.

### **2.2.3 Monetary Authority (“MA”)**

The main functions of the MA, in the context of MPF, are to:

- (a) regulate banks in Hong Kong which are involved in the MPF system, whether as custodians, guarantors for MPF investment products or providers of continuous financial support to trustees or custodians, and ensure that they maintain financial soundness; and
- (b) regulate MPF intermediaries who are authorized institutions and staff of authorized institutions.

The MPFA has signed a Memorandum of Understanding with the SFC concerning the two regulatory bodies’ respective roles in the regulation of MPF products. In addition, the MPFA has also signed a Memorandum of Understanding concerning the Regulation of MPF Intermediaries with the MA, the IA and the SFC.

## **2.3 MPF LEGISLATION, CODES, GUIDELINES AND STANDARDS**

The **MPF legislation** refers to the MPFSO and the three major pieces of subsidiary legislation, namely, the Mandatory Provident Fund Schemes (General) Regulation, the Mandatory Provident Fund Schemes (Exemption) Regulation (both enacted in April 1998), and the Mandatory Provident Fund Schemes (Fees) Regulation (enacted in May 1999).

### **2.3.1 Mandatory Provident Fund Schemes Ordinance (“MPFSO”)**

This is the primary statute and its intentions are to:

- (a) provide for the establishment of non-governmental mandatory provident fund schemes for the purpose of funding benefits on retirement;
- (b) provide for contributions to such schemes;
- (c) provide for the registration of such schemes;
- (d) provide for a regulatory regime in respect thereof;
- (e) provide for the creation of an authority (MPFA) to oversee the administration and management of registered schemes;
- (f) exempt certain classes of persons from contributing to registered schemes;
- (g) provide for the approval of persons (other than public officers or statutory corporations) as trustees of registered schemes;
- (h) provide for the control and regulation of approved trustees; and
- (i) make consequential amendments to other ordinances including pension related ordinances, and for connected purposes.

The practical details of many of the above objectives are considered in greater detail in these Study Notes.

### **2.3.2 MPFSO Regulations**

The following Regulations have been enacted for the detailed operation of the primary statute:

- (a) **Mandatory Provident Fund Schemes (General) Regulation (“General Regulation”)**

The General Regulation sets out detailed requirements on the operation of MPF schemes, including requirements on:

- (i) trustees and other service providers;
- (ii) schemes and investment products;
- (iii) enrolment;
- (iv) contribution;
- (v) portability and withdrawal of accrued benefits arrangements;

- (vi) compensation fund; and
- (vii) investment requirements.

(b) **Mandatory Provident Fund Schemes (Exemption) Regulation (“Exemption Regulation”)**

The Exemption Regulation sets out the detailed requirements with regard to:

- (i) applications for exemption from MPF requirements in respect of ORSO schemes; and
- (ii) ongoing monitoring requirements.

(c) **Mandatory Provident Fund Schemes (Fees) Regulation (“Fees Regulation”)**

The Fees Regulation prescribes the types and amount of fees imposed by the MPFA, including fees payable on:

- (i) application for approval of trustees;
- (ii) registration of provident fund schemes or approval of pooled investment funds;
- (iii) application for winding up or restructuring of registered schemes;
- (iv) application for exemption certificates in respect of ORSO exempted/registered schemes; and
- (v) annual renewal of registration of registered schemes.

### **2.3.3 MPF Codes, Guidelines and Standards**

To supplement the MPF legislation, the MPFA has issued a number of codes and guidelines to facilitate compliance with the legislation on the part of the service providers and scheme participants, including those relating to the interface arrangements between the MPF system and ORSO schemes. In addition, the MPFA has developed a set of Compliance Standards for the guidance of MPF Approved Trustees in establishing a structured framework for monitoring their compliance with statutory duties and responsibilities.

(a) **MPF Codes**

Three codes have been issued by the MPFA:

- (i) Code on MPF Investment Funds;
- (ii) Code of Conduct for MPF Intermediaries;
- (iii) Code on Disclosure for MPF Investment Funds.

(b) **MPF Guidelines**

There are five parts of the MPF Guidelines that deal with various matters:

- (i) Part I - Guidelines on Licensing;
- (ii) Part II - Guidelines on Reporting Requirements;
- (iii) Part III - Guidelines on Investment;
- (iv) Part IV - Guidelines on Scheme Operations;
- (v) Part V - Guidelines on ORSO Interface.

(c) **Standards**

- (i) Compliance Standards for MPF Approved Trustees

Lists of the MPF legislation, codes, guidelines and standards are set out in **Appendix II**.

## **2.4 OTHER RELEVANT LEGISLATION**

A number of ordinances have a bearing on the MPF system. Whilst it is not expected that you should have a detailed knowledge of these ordinances, you should nevertheless have an appreciation of the general intentions of each.

### **2.4.1 Occupational Retirement Schemes Ordinance (“ORSO”)**

The intentions of this Ordinance are to:

- (a) regulate all voluntarily established ORSO schemes operating in or from Hong Kong;
- (b) ensure that the ORSO schemes are properly administered and funded; and
- (c) provide greater certainty that retirement scheme benefits promised to employees will be paid when they fall due.

The ORSO is supported by subsidiary legislation in the form of rules made by the Registrar of Occupational Retirement Schemes.

### **2.4.2 Securities and Futures Ordinance**

The intentions of this Ordinance are to:

- (a) make provisions in relation to financial products, the securities and futures market and the securities and futures industry;
- (b) regulate activities and other matters connected with financial products, the securities and futures market and the securities and futures industry; and
- (c) provide for the protection of investors and other matters incidental to or connected with financial products, the securities and futures market and the securities and futures industry and for connected purposes.

### **2.4.3 Insurance Companies Ordinance**

The intentions of this Ordinance are to:

- (a) regulate the carrying on of insurance business;
- (b) regulate insurance intermediaries;
- (c) provide for the appointment of the IA;
- (d) confer powers of authorization and intervention on the IA, both in respect of insurers and insurance intermediaries;
- (e) require insurers and insurance intermediaries to furnish financial statements and other information to the IA; and
- (f) provide for matters incidental thereto or connected therewith.

### **2.4.4 Banking Ordinance**

The intentions of this Ordinance are to:

- (a) regulate the banking business;
- (b) regulate the business of taking deposits;
- (c) make provision for the supervision of authorized institutions;
- (d) provide a measure of protection to depositors;
- (e) promote the general stability and effective working of the banking system;
- (f) make provision for the supervision of money brokers; and
- (g) provide for matters incidental thereto or connected therewith.

### **2.4.5 Employment Ordinance**

Primarily dealing with the protection of wages for employees, regulation of general conditions of employment and employment agencies, this Ordinance has relevance to the MPF System particularly in relation to the definition of employee, unlawful deduction of wages to cover employer's contribution, unreasonable and unilateral variation of employment terms, and long-service / severance payments.

### **2.4.6 Inland Revenue Ordinance**

Primarily dealing with tax on property, earnings and profits, this Ordinance has relevance to MPF in respect of the tax allowance on the mandatory contributions made by employers and employees.

### **2.4.7 Trustee Ordinance**

Primarily dealing with the duties and statutory requirements of a trustee (see 4.1).

## *Representative Examination Questions*

### **Type “A” Questions**

- 1 The centralized body with special responsibility for the regulation of banks in Hong Kong which are involved in the MPF system is the:
- (a) Securities and Futures Commission (SFC); .....
  - (b) Insurance Authority (IA); .....
  - (c) Monetary Authority (MA); .....
  - (d) Mandatory Provident Fund Schemes Authority (MPFA). .....

[Answer is in **2.2.3**]

### **Type “B” Questions**

- 2 Which **three** of the following areas are covered by guidelines issued by the MPFA?
- (i) Licensing
  - (ii) Investment
  - (iii) Reporting requirements
  - (iv) Tax deductions allowable for MPF contributions
- (a) (i), (ii) and (iii); .....
  - (b) (i), (ii) and (iv); .....
  - (c) (i), (iii) and (iv); .....
  - (d) (ii), (iii) and (iv). .....

[Answer is in **2.3.3**]

- 3 Which of the following are relevant to the MPF system?
- (i) Banking Ordinance
  - (ii) Securities and Futures Ordinance
  - (iii) Insurance Companies Ordinance
  - (iv) Consumer Council Ordinance
- (a) (i) and (ii) only; .....
  - (b) (i), (ii) and (iii) only; .....
  - (c) (ii), (iii) and (iv) only; .....
  - (d) (i), (ii), (iii) and (iv). .....

[Answer is in **2.4**]

*[If required, the answers may be found at the end of the Study Notes.]*

## **3 KEY FEATURES OF THE MPF SYSTEM**

The MPF system has a number of key features. This chapter explains in detail the key features of the MPF system.

### **3.1 SECURITY OF SCHEME ASSETS**

All MPF schemes must be governed by the law of Hong Kong. With even the “safest” investments, there will always be an element of risk. Because of the importance of the MPF System to so many people’s lives, however, every effort has been made to ensure the security of the scheme’s assets. This is achieved through various levels of protection, sometimes collectively termed as the “safety net”.

#### **3.1.1 Stringent Authorization Requirements**

Trustees and other service providers, as well as MPF schemes, are subject to careful scrutiny as follows:

##### **(a) Trustees and other service providers**

- (i) All trustees must be approved by the MPFA before they can act as trustees for MPF schemes.
- (ii) They must meet stringent requirements, including having paid-up share capital and net assets of at least HK\$150 million each (see **4.4**) in order to be approved.
- (iii) The application for trustee approval is carefully examined by the MPFA in relation to the trustee, investment manager, custodian and other service providers engaged for the purpose of the scheme.
- (iv) The purpose of the scrutiny in (iii) above is to ensure that the persons concerned have the knowledge, qualifications, experience, financial capability and control to administer the scheme, invest the funds and safeguard members’ benefits.

##### **(b) MPF Schemes**

- (i) All MPF schemes must be registered by the MPFA.
- (ii) The schemes must meet stringent requirements (see **Chapter 5**) in order to be registered.
- (iii) The MPFA examines the governing rules to ensure that they comply with the legislative requirements.

### 3.1.2 Professional Indemnity Insurance

Professional indemnity insurance must be arranged to cover losses that MPF schemes might sustain from a number of prescribed risks. These include **fraud** and **negligence** on the part of the trustee, as well as other risks, e.g. loss of scheme assets in transit. (This insurance is in fact wider than normal professional indemnity coverage). However, the insurance does not cover losses attributable to investing the scheme's funds in the ordinary course of business.

### 3.1.3 Compensation Fund

The compensation fund:

- (a) is established to compensate scheme members and other persons who have beneficial interests in those schemes for losses of accrued benefits due to **misfeasance** or **illegal conduct** of approved trustees and other service providers;
- (b) consists of an initial injection of **HK\$600 million** from the government, supplemented by a **levy** on MPF schemes at a rate of **0.03%** of the net asset value of the scheme assets; and
- (c) is a fund of "last resort", intended to be used after utilizing the professional indemnity insurance and upon application to the MPFA.

## 3.2 FUNCTIONS OF APPOINTED SERVICE PROVIDERS

The approved trustee is the central party responsible for all scheme management functions. It may delegate its scheme administration and custodial duties to other service providers and, subject to exceptions, it must appoint an investment manager. The marketing of the scheme is conducted by MPF intermediaries. The duties and functions of the trustee are covered in Chapter 4 (see **4.3**). Those of the appointed service providers are summarized below:

### (a) Investment Managers

They must:

- (i) be licensed by or registered with the SFC to carry on a business of Type 9 (asset management) regulated activity;
- (ii) comply with their investment contracts and all required MPF guidelines and restrictions;
- (iii) continue to meet their own capital and net asset requirements.

### (b) Custodians

The word means a "guardian" or someone having the care, i.e. "custody", of something or someone, and in this context refers to the person or institution to which the trustee has delegated care of the trust assets. The custodian physically holds the assets and is

likely to be an authorized bank or a registered trust company. If it is a registered trust company, it must have paid-up share capital and net assets of at least **HK\$150 million** each (or HK\$50 million plus appropriate continuous financial support from a substantial financial institution).

Where appointed, they must:

- (i) take proper care of all scheme assets;
- (ii) comply with all requirements in their contract (which is known as the custodial agreement) and all required MPF guidelines and restrictions;
- (iii) continue to meet all financial and other requirements placed upon them.

(c) **MPF Intermediaries**

Details of the role of MPF intermediaries are discussed in **Chapter 7**. In general, they must:

- (i) explain the key features of the MPF schemes/constituent funds they are marketing;
- (ii) provide clients with the relevant offering documents and marketing materials;
- (iii) understand clients' financial situation, risk preference and investment objectives before advising on MPF investment funds.

### **3.3 TYPES OF MPF SCHEMES**

There are three types of MPF scheme:

(a) **Employer Sponsored Scheme**

- (i) Membership is only open to the employees of a single employer and its associated companies.
- (ii) Because of the limited membership, it is only cost effective to run such a scheme if the number of employees is large. It is therefore likely that only large companies will consider setting up their own employer sponsored schemes.

(b) **Master Trust Scheme**

- (i) Membership is open to the employees of different employers, self-employed persons, former self-employed persons and persons who, having benefits in another MPF scheme, an ORSO exempted scheme, or an ORSO registered scheme, wish to have those benefits transferred to this scheme.
- (ii) By pooling the contributions of small employers together for administration and investment, such schemes can enjoy a high degree of efficiency resulting from economies of scale.

(c) **Industry Scheme**

- (i) Such a scheme is specially designed for employees and self-employed persons

of industries with high labour mobility and daily wage practice.

- (ii) At present, the two designated industries are the catering and construction industries.
- (iii) It is optional, not compulsory, for employers in these industries to enrol their employees in such a scheme.
- (iv) An employee who is a member of an industry scheme does not need to change scheme if the previous and new employers are participating in the same industry scheme. This minimizes the administrative cost to employers and casual employees entailed by the transfer of accrued benefits from one scheme to another.

### 3.4 COVERAGE

- (a) With certain exceptions (see 3.5 below) an employee or a self-employed person, aged 18 to aged below 65 is required to be enrolled in and contribute to an MPF scheme, to which the employee's employer must also contribute.
- (b) Those covered by the MPF system (subject to exemptions) are:
  - (i) **Employees** (including full-time and part-time employees) who have been employed for **60 days** or more under an employment contract. The location of work and number of hours worked are irrelevant.

Basically, an employee is a person engaged by an employer under an employment contract (which may be in writing or oral and includes express or implied terms).

The 60-day employment rule, however, does not apply to "casual employees" in the catering and construction industries as mentioned below.

- (ii) **Casual employees** in designated industries are covered by the MPF system regardless of their duration of employment.

Under the MPF legislation, "casual employee" refers to any person employed in the designated industries by an employer on a day-to-day basis or for a fixed period of less than 60 days.

At present, only the **catering** and **construction** industries have been selected for industry schemes. The coverage of these industries is as follows:

### *Coverage for the Catering Industry*

For the purpose of the industry schemes, the catering industry covers holders of food business licences or permits under the Food Business Regulation (Cap. 132, Subsidiary Legislation), canteens at schools and workplace and catering establishments inside clubs. The following are examples of catering establishments:

1. Food factories, milk factories, frozen confection factories & bakeries
2. Restaurants
3. Factory canteens
4. Siu mei or lo mei shops
5. Cold stores
6. Fresh provision shops
7. Cooked food stalls operating in a public market
8. Cooked food stalls which are granted hawker licences
9. Chinese herb tea shops

### *Coverage for the Construction Industry*

The construction industry covers the following eight major categories:

1. Foundation and associated works
2. Civil engineering and associated works
3. Demolition and structural alteration works
4. Refurbishment and maintenance works
5. General building construction works
6. Fire services, mechanical, electrical and associated works
7. Gas, plumbing, drainage and associated works
8. Interior fitting out works

The following are examples of establishments and units engaged in construction work:

#### *Registered with the Buildings Department:*

1. General building contractors
2. Specialist contractors in the ventilation category

#### *Registered with the Electrical and Mechanical Services Department:*

3. Electrical contractors
4. Lift contractors and escalator contractors
5. Builders' lift contractors
6. Gas contractors

#### *Others:*

7. Fire service installation contractors registered with the Fire Services Department
8. Holders of a plumber's licence issued by the Water Supplies Department
9. Public works contractors with an approval letter from the Works Branch

Development Bureau

10. All sub-contractors to which projects or works are delegated directly or indirectly from any of the 9 contractors specified above

- (iii) **Self-employed person** refers to any person whose relevant income (other than in the capacity as an employee) is derived from his production (in whole or in part) of goods or services in Hong Kong, or his trade in goods or services in or from Hong Kong.

In simple words, a self-employed person is one who works for himself and is not employed as an employee. For example, if a person is a sole proprietor (such as a taxi driver) or a partner of a partnership, that person is regarded as a self-employed person under the MPF system.

**Note:** Please refer to **Appendix III** for explanations as to why employees of certain types of jobs are included in or excluded from, the MPF system.

### 3.5 EXEMPT PERSONS

There are certain categories of persons in Hong Kong who are not required to join an MPF scheme. Employers of these exempt persons will also be exempted as far as the employment is concerned. In certain cases, if they cease to be exempted, the enrolment and contribution requirements apply as if the employment or self-employment has begun on the first day they ceased to be exempted.

Such persons include:

- (a) employees and self-employed persons who are under 18 or have reached 65;
- (b) domestic employees;
- (c) self-employed licensed hawkers;
- (d) people covered by statutory pension and provident fund schemes (such as civil servants and subsidized or grant school teachers);
- (e) people from overseas who enter Hong Kong for employment for 13 months or less;
- (f) people from overseas who enter Hong Kong for employment and are covered by overseas retirement schemes;
- (g) employees of the European Union Office of the European Commission in Hong Kong; and
- (h) members of occupational retirement schemes which are “MPF exempted ORSO schemes”.

**Note:** A person under categories (b) to (d) and (g) to (h) above who may have income from other employment or self-employment may not be exempted from the relevant

provisions of MPFSO in respect of that other income.

## **3.6 ENROLMENT**

### **3.6.1 Duties of Employers**

- (a) Employers are required to enrol their employees who have been employed for 60 calendar days or more to become members of MPF schemes in which the employers participate. However, employers of casual employees in the catering and construction industries are required to arrange for such employees to participate in MPF schemes regardless of the duration of employment.
- (b) Employers participating in MPF schemes will be issued with participation certificates by the MPFA. Employers are required to display these certificates at the premises where their employees are employed.

**Note:** An employer means any person who has entered into a contract of employment to employ another person as his employee.

### **3.6.2 Duties of Self-employed Persons**

- (a) Self-employed persons are required to enrol themselves to become members of MPF schemes regardless of their level of income. However, they are only required to contribute if they are earning HK\$5,000 or more a month or HK\$60,000 or more a year.
- (b) Self-employed persons have an obligation to enrol in MPF schemes and make contributions regardless of whether they have filed tax returns or obtained business registration certificates.

### **3.6.3 Duties of Trustees**

- (a) Requirements for application for membership of, or participation in, the scheme, the governing rules of the scheme and fees and charges payable under the scheme must be disclosed to a person who is considering to become a scheme member or participating employer.
- (b) A notice of acceptance should be issued to the scheme applicant within 30 days after the applicant has submitted all the information required for the application of membership of or participation in, the scheme, or after the applicant agrees to observe and accept the governing rules of the scheme, whichever is the later.
- (c) A membership certificate should be issued to the employee within 60 days after the employee has become a scheme member.

**Note:** Except for exempt persons, all persons covered by the MPF system must join an MPF scheme. To allay any fears that some persons may have difficulty in

joining a scheme, the MPF legislation includes a “**non-refusal of scheme applicants**” provision. Under the terms of this, no application may be refused, provided that the person making it complies with all requirements and agrees in writing that he will comply with the governing rules of the scheme.

### 3.7 CONTRIBUTIONS

The MPFSO spells out the provisions for mandatory contributions, which are set out as follows.

#### 3.7.1 Mandatory Contributions

##### (a) In Respect of Employees

###### (i) The amount

- Relevant Employees

For a “relevant employee” who has been employed for 60 days or more, both the employee and the employer are required to contribute 5% of the employee’s relevant income. Contributions are generally made on a monthly basis.

Employees earning less than HK\$5,000 a month do not need to contribute but their employers are still required to contribute 5% of the employees’ relevant income. For an employee earning more than HK\$20,000 a month, mandatory contributions are capped at HK\$1,000 for the employer and the employee respectively.

- Non Daily-paid Casual Employees

For casual employees who are members of an industry scheme and who are not paid on a daily basis (e.g. on a weekly or bi-weekly basis), both the employee and the employer are required to contribute mandatory contributions in accordance with the scale of contributions as follows (i.e., 5% of the employee’s relevant income (capped at HK\$32.5 per day)):

Average daily income (HK\$)	Employer’s Contribution (HK\$)	Employee’s Contribution (HK\$)
Below 160	5% of employee’s relevant income	No contribution required
160 - 650	5% of employee’s relevant income	5% of employee’s relevant income
Over 650	32.5 per day	32.5 per day

- Daily-paid Casual Employees

For casual employees who are members of an industry scheme and who are paid on a daily basis, their mandatory contributions are made in accordance with the scale of contributions as follows:

Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contributions HK\$
Below 160	7.5	No contribution required	7.5
160 – below 260	7.5	7.5	15
260 – below 390	15	15	30
390 – below 520	22.5	22.5	45
520 – not more than 650	30	30	60
Over 650	30	30	60

**Note:** The above contribution scales do not apply to master trust schemes.

(ii) Relevant income

This means any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance, expressed in monetary terms, paid or payable by an employer to an employee in consideration of the employment contract. However, it does not include any severance or long service payments.

**Note:** Please refer to **Appendix IV** for explanations as to why certain types of income are regarded or not regarded as relevant income under the MPF system.

(iii) Permitted period

The permitted period is the period within which an employer must enrol his employees in an MPF scheme, i.e. the first 60 days of their employment. An employer must enrol employees in an MPF scheme before the end of the permitted period. However, in respect of a casual employee, the permitted period is the first 10 days regardless of the type of scheme in which he is enrolled.

(iv) Wage period

A wage period means each period for which the employer pays, or should pay, relevant income to the employee.

(v) Contribution period

- In relation to an employer:

A contribution period means each period for which the employer pays or should pay relevant income to the employee.

- In relation to an employee (other than a casual employee):

(a) where the wage period is not more than 1 month (e.g. weekly or monthly), a contribution period means each period for which the employer pays or should pay relevant income to the employee, but **does not include** any wage period commencing on or before the 30th day of employment;

(b) where the wage period is more than 1 month (e.g. quarterly), a contribution period means each period for which the employer pays or should pay relevant income to the employee, but **does not include** the period commencing from the date of employment and ending on the last day of the calendar month in which the 30th day of employment falls.

- In relation to a casual employee:

A contribution period means each period for which the employer pays or should pay relevant income to the employee.

(vi) Contribution day

Employers are required to pay mandatory contributions to the scheme's trustee on or before the contribution day.

In the case of employees (other than casual employees), the contribution day is defined as the 10th day after the last day of:

(a) a calendar month within which the relevant contribution period ends; or

(b) the month during which the permitted period ends, whichever is the later.

If the contribution day is a Saturday, a public holiday, a gale warning day or black rainstorm warning day, then it shall mean the next following day which is not a Saturday, a public holiday, a gale warning day or a black rainstorm warning day.

In the case of casual employees who are **not** members of an industry scheme, the contribution day is defined as the 10th day after the last day of:

(a) the relevant contribution period; or

(b) the contribution period during which the permitted period ends,

whichever is the later.

In the case of casual employees who are members of an industry scheme, the contribution day is defined as one of the following days as agreed between the employer and the trustee of the scheme concerned:

- (a) the next working day (other than Saturday) immediately after the payment of relevant income for the relevant contribution period; or
- (b) the 10th day after the last day of the relevant contribution period.

**Note:** Please refer to **Appendix V** for a guide on when the contribution is considered paid under different payment methods/channels.

(vii) Who must pay?

The employer is required to make mandatory contributions in respect of the employee from his own funds. The employer must also deduct from the employee's relevant income the contribution by the employee for each contribution period.

Contributions are required to be paid on or before the **contribution day** (refer to (vi) above), but there are different implications for:

- the employer: he is required to make contributions for the employee from the **first day** of such employment;
- the employee (other than casual employee): he is **not** required to contribute for the **first 30 days of employment and any wage period/calendar month (as the case may be) commencing on or before the 30th day of employment** i.e. contribution should start from the first complete wage period/calendar month commencing on or after 31st day of employment;
- the casual employee: both the casual employee and his employer are required to make contributions from the **first day** of employment.

(viii) Remittance statement

A statement showing the relevant income and the amount of contribution for each of the employees (**not** including casual employees in an industry scheme where contributions are made on the next working day (other than Saturday) immediately after the relevant income payments) should accompany the payment to the trustee.

(ix) Monthly pay-record

The employer must provide each employee (other than casual employees in an industry scheme whose contributions are made on the next working day (other than Saturday) immediately after the relevant income payments) with a monthly pay-record within **7 working days** after the

last contribution payment during the month. It is to include:

- the employee's **relevant income**;
- the amount of contributions (both mandatory and voluntary) paid by the employer and deducted from the employee's relevant income;
- the **date** on which the contributions were paid to the trustee.

(x) **Minimum relevant income**

Even if the relevant income of an employee is less than **HK\$5,000** per month, the employer must still pay a 5% mandatory contribution. The employee, however, is not required to make a mandatory contribution. If the employee elects to make a contribution, this will be regarded as a voluntary contribution.

(xi) **Maximum relevant income**

If the relevant income of an employee is more than **HK\$20,000** per month, the mandatory contributions for both the employer and employee are limited to **HK\$1,000** each (i.e. 5% of HK\$20,000). With any level of relevant income, however, both the employer and the employee can opt to make extra voluntary contributions. However, the amount of the employer's voluntary contribution does not have to match the employee's amount.

**Note:** Please refer to **Appendix VI** for a simple guide to the rights and duties of employees and employers under the MPF system.

(b) **In Respect of Self-employed Persons**

(i) **Definition and amount**

A self-employed person is one whose income comes from the production of goods or services in Hong Kong, or from trading goods or services in or from Hong Kong other than in the capacity as an employee. Such a person is required to contribute **5%** of his/her relevant income.

**Note:** There is no additional 5% contributions from an employer.

(ii) **Contribution period and contribution day**

Payment must be made to the trustee before the end of the contribution period. A contribution period may either be a year or a month, at the self-employed person's option. Such a person must inform the trustee at least **30 days** before the end of each financial period of the scheme:

- the relevant income for the next financial period of the scheme;
- whether he will contribute **yearly** or **monthly**. If the

self-employed person chooses to contribute on a monthly basis, the contribution period can be specified in writing to the scheme trustee; and the monthly contribution is due on the last day of the contribution period. If the contribution is on a yearly basis, the contribution day is the financial year end of the scheme.

(iii) Relevant income

This is linked to the assessable profits for the preceding year of assessment that is calculated in accordance with the Inland Revenue Ordinance. The self-employed person is required to produce evidence of relevant income to the trustee, but is not required to do so if the **maximum** mandatory contribution of **HK\$1,000** a month or **HK\$12,000** a year is paid.

(iv) Ascertainment of “relevant income”

If evidence of relevant income includes the most recent Inland Revenue notice of assessment, the assessable profits shown will be accepted as the relevant income (proportionally adjusted if the period covered by the notice is shorter or longer than one year).

If the most recent notice of assessment is not produced, the relevant income for the year will be an amount declared by the self-employed person as equal to the previous year’s assessable profits. It is a criminal offence knowingly to make an untrue or misleading declaration to the trustee.

If the self-employed person cannot produce evidence of the relevant income (notice of assessment or declaration of profit) to the trustee (and the trustee is satisfied that the person really cannot produce such evidence) and claims to earn less than the maximum level of relevant income (see **3.7.1(b)(vi)** below), then the relevant income will be taken as equivalent to the basic allowance within the meaning of section 28 of the Inland Revenue Ordinance.

If the self-employed person cannot produce any evidence and the trustee is not satisfied with the reason for not doing so, the relevant income will be taken as HK\$240,000 a year.

(v) Negative income

If the self-employed person suffers **losses**, a statement may be lodged with the trustee showing the computation of the net loss in respect of the relevant business. The net loss should cover the last financial period of the self-employed business (which will be used to determine the relevant income of the self-employed person for the next financial period of the scheme). Mandatory contributions should be resumed when the self-employed person’s relevant income exceeds the minimum level (i.e. HK\$60,000 yearly).

(vi) Minimum and maximum levels

For a self-employed person, the **minimum** level of relevant income for mandatory contribution purposes is **HK\$5,000** per month or **HK\$60,000** per year. The **maximum** level is **HK\$20,000** per month or **HK\$240,000** per year.

If the length of the financial period of the scheme is shorter than 12 months, the above maximum and minimum levels should be adjusted proportionally by dividing the relevant amount by the number of days in the period as follows:

- Minimum relevant income = HK\$60,000 x DC/365
- Maximum relevant income = HK\$240,000 x DC/365

**Note:** DC is the number of days during the financial period of the scheme where the self-employed person is a member.

As with employees, voluntary contributions can always be paid by self-employed persons.

(vii) Permitted period

The permitted period is the period within which the self-employed person must become a member of an MPF scheme. The permitted period is 60 days for self-employed persons.

(viii) Monthly contributions

For mandatory contributions, if payments are to be made on a monthly basis, the monthly relevant income is calculated by dividing the yearly income by the number of whole months in the financial period.

(ix) Partners

Self-employed persons who are partners should calculate their relevant income by making proportional adjustments according to their share of profits of the business for that financial period.

(x) Cessation of self-employment

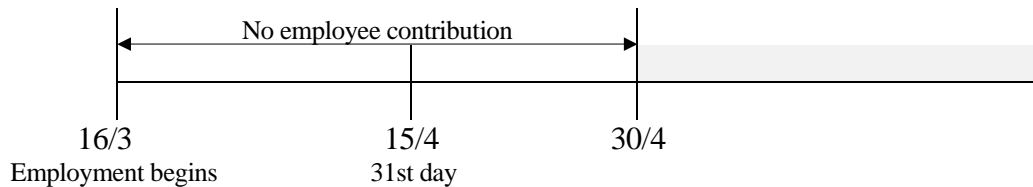
A self-employed person should inform the scheme trustee of his cessation of self-employment and should make his last contribution on or before the end of the contribution period in which he ceases to be self-employed.

**Note:** Please refer to **Appendix VII** for a simple guide to the rights and duties of self-employed persons under the MPF system.

(c) **Examples to Demonstrate the Application of the Above Rules**

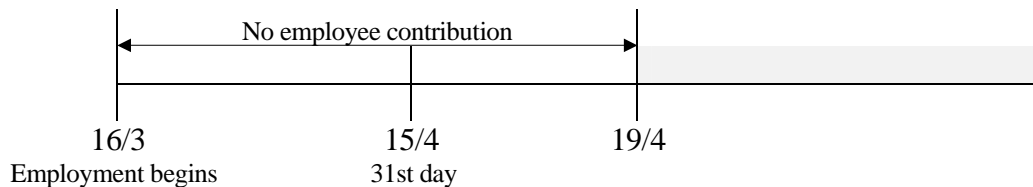
In order to clarify the application of the above rules, some practical examples are provided below:

(i) Wage period: On a calendar month basis



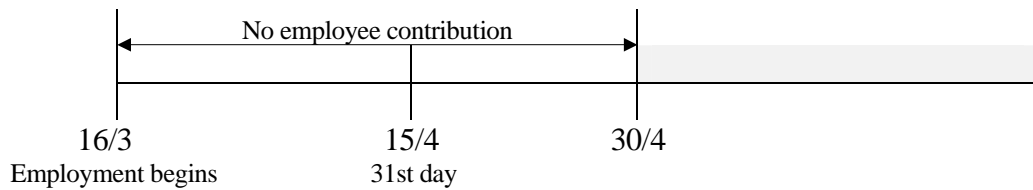
<b>Employer contribution starts from:</b>	<b>16/3/2009</b>
<b>Employee contribution starts from:</b>	<b>1/5/2009</b>
<b>61<sup>st</sup> day of employment:</b>	<b>15/5/2009</b>
<b>1<sup>st</sup> contribution day:</b>	<b>10/6/2009</b>
<b>Employer contribution</b>	<b>16/3/2009–31/5/2009</b>
<b>Employee contribution</b>	<b>1/5/2009-31/5/2009</b>

(ii) Wage period: On a calendar week (Monday to Sunday) basis



<b>Employer contribution starts from:</b>	<b>16/3/2009</b>
<b>Employee contribution starts from:</b>	<b>20/4/2009</b>
<b>61<sup>st</sup> day of employment:</b>	<b>15/5/2009</b>
<b>1<sup>st</sup> contribution day:</b>	<b>10/6/2009</b>
<b>Employer contribution</b>	<b>16/3/2009-31/5/2009</b>
<b>Employee contribution</b>	<b>20/4/2009-31/5/2009</b>

(iii) Wage period: On a quarterly basis



<b>Employer contribution starts from:</b>	<b>16/3/2009</b>
<b>Employee contribution starts from:</b>	<b>1/5/2009</b>
<b>61<sup>st</sup> day of employment:</b>	<b>15/5/2009</b>
<b>1<sup>st</sup> contribution day:</b>	<b>10/6/2009</b>
<b>Employer contribution</b>	<b>16/3/2009-31/3/2009</b>
<b>Employee contribution</b>	<b>Nil</b>
<b>2<sup>nd</sup> contribution day:</b>	<b>10/7/2009</b>
<b>Employer contribution</b>	<b>1/4/2009-30/6/2009</b>
<b>Employee contribution</b>	<b>1/5/2009-30/6/2009</b>

(iv) Relevant income: HK\$2,000 per month

**Employee** No contribution is required by the employee, unless he chooses to do so as a voluntary contribution, because his relevant income is below the minimum income level for contribution purpose. However, the employer must contribute HK\$100 (5%).

**Self-employed person** Only makes a contribution if he so chooses as a voluntary contribution, because his relevant income is below the minimum income level for contribution purpose.

(v) Relevant income: HK\$15,000 per month

**Employee** The employee and the employer each contribute HK\$750 (5%)

**Self-employed person** Contribution of HK\$750 (5%)

(vi) Relevant income: HK\$30,000 per month

**Employee** Contribution by the employee and the employer limited to HK\$1,000 each (5% of HK\$20,000 maximum level of income for contribution purpose). Additional amounts may be paid by

the employee or the employer or both as voluntary contributions.

**Self-employed person**

Contribution of HK\$1,000 (5% of HK\$20,000 maximum level of income for contribution purpose). An additional voluntary contribution may be made.

**Note:** You are advised to do more practice using your own examples. The examination may include one or more questions on calculations of contributions payable ( “user-friendly” numbers will be used as far as possible for convenience of computations.)

### **3.7.2 Voluntary Contributions**

Although voluntary contributions are not required to be made under the MPF legislation, the MPFA encourages employers and scheme members to make such contributions to accumulate additional benefits. A number of matters requiring attention in relation to voluntary contributions are addressed below. These, the MPFA believes, effectively safeguard accrued benefits derived from voluntary contributions.

**(a) MPF Legislative Provisions**

All provisions of the MPF legislation applying to accrued benefits derived from mandatory contributions apply equally to accrued benefits derived from voluntary contributions, **except** those provisions relating to:

- (i) vesting;
- (ii) preservation;
- (iii) portability;
- (iv) withdrawal

which are governed by the rules of the relevant MPF scheme.

**(b) Trust Arrangements etc**

Scheme assets derived from voluntary contributions are managed by the same approved trustees, qualified investment managers and custodians responsible for managing the scheme assets derived from mandatory contributions in accordance with MPF legislation. Scheme assets derived from voluntary contributions are also covered by indemnity insurance.

**(c) Investment of Contributions**

Investment of voluntary contributions is subject to the same investment restrictions applicable to mandatory contributions under an MPF scheme.

**(d) Compensation Fund**

The compensation fund covers accrued benefits derived from voluntary contributions in the same way as from mandatory contributions.

(e) **Employers to Contribute**

Subject to the governing rules of the scheme, employers may make voluntary contribution and the relevant trustees have to follow up with employers in the case of any outstanding voluntary contributions.

### 3.7.3 Tax Allowances

The Government grants certain tax concessions, as follows:

- (a) **Mandatory** contributions made by an **employee** are tax deductible, but subject to the maximum contribution of HK\$12,000 per year;
- (b) **mandatory** contributions by an **employer** are also tax deductible, but there is an annual limit. Total mandatory amounts paid into MPF schemes by the employer, together with the employer's voluntary contributions to MPF schemes or to other registered retirement schemes (ORSO schemes etc, see **Chapter 6**) are deductible up to **15%** of the total annual emoluments of the employees concerned; and
- (c) benefits from **mandatory** contributions are **tax exempt**. Benefits received from **voluntary** contributions made by employers may be subject to tax, depending on when and how they are paid.

**Note:** Tax allowances are subject to the provisions in the MPF Circular Letters (Nos. 1 & 2) on Mandatory Provident Fund Schemes, issued by the Office of the Commissioner of Inland Revenue.

### 3.7.4 Default Contributions

A mandatory contribution is in arrears if it is not paid by the contribution day. The defaulter is liable to pay the contribution in arrears and a contribution surcharge. A financial penalty may also be imposed on the defaulter.

(a) **Duties of approved trustees**

- (i) Upon receipt of a remittance statement, the approved trustee must check the accuracy of the arithmetical calculation of the mandatory contribution in the statement. The trustee should also ensure the mandatory contribution paid tallies with the amount specified in the statement.
- (ii) If an employer or a self-employed person fails to pay the mandatory contribution by the contribution day, the trustee must report to the MPFA within 10 days after the contribution day.
- (iii) The trustee concerned must take action as may be reasonably required by the MPFA in connection with the recovery of arrears or surcharges.

- (iv) However, in a case where the employer of a casual employee participating in an industry scheme and the trustee of the scheme have agreed that the contribution day should be the next working day (other than a Saturday) immediately after the relevant income payment and the employer fails to pay the mandatory contributions, the trustee is not required to report to the MPFA.

(b) **Actions to be taken by MPFA**

- (i) The MPFA, on receiving a report under (a)(ii) above, will take action to recover the arrears. This may include the issue of a notice chasing the default contribution and imposing a contribution surcharge on the defaulter. The contribution surcharge is imposed at a flat rate of 5% of the amount of mandatory contribution in arrears. In addition, the MPFA may impose a financial penalty (at the higher of HK\$5,000 or 10% of the amount of mandatory contribution in arrears) on the defaulter.

(c) **Offences**

- (i) An employer who fails to pay mandatory contributions and is convicted of an offence is liable to a fine of HK\$350,000 and imprisonment for 3 years . An employer who fails to pay the deducted wages as employee mandatory contributions and is convicted of the offence, is liable to a fine of HK\$450,000 and imprisonment for 4 years
- (ii) A self-employed person who fails to pay mandatory contributions and is convicted of an offence is liable to a fine of HK\$50,000 and imprisonment for 6 months on the first occasion. For each subsequent occasion, the fine is HK\$100,000 and imprisonment of 12 months.

### **3.8 VESTING**

- (a) The meaning of “vesting” in this context is to endow or to give legal rights of possession regarding a particular financial interest. Thus, both the employee’s and the relevant employer’s **mandatory** contributions to an MPF scheme are said to be vested fully and immediately in the employee as accrued benefits, once they are paid to the approved trustee of the MPF scheme concerned.
- (b) Investment income or profit derived from the investment of accrued benefits (after taking into account any loss arising from such investment) is also immediately vested in the scheme member.
- (c) Even if the employee ceases employment after a short while, the employer cannot claw back the accrued benefits derived from the employer’s portion of mandatory contributions and the vested portion of the employer’s voluntary contributions made previously.
- (d) Such vesting, however, is subject to section 12A of the MPFSO where severance payments or long service payments is to be paid from the accrued benefits attributable to the employer’s contributions held in MPF schemes (see also **3.13** below).

- (e) Voluntary contributions made by an employee or a self-employed person are vested in full as accrued benefits in that employee or self-employed person when they are paid to the trustee. However, voluntary contributions made by an employer in respect of an employee are vested in the employee as accrued benefits, in accordance with the governing rules of the scheme.

### **3.9 PRESERVATION**

The primary intention of the MPF system must never be forgotten. That is to provide a significant lump sum for the employee on retirement. It is therefore extremely important that there should be a strict preservation of any accrued benefits until the time they are to be paid. Accordingly, all benefits derived from mandatory contributions must be preserved until the scheme member reaches the age of 65, except for early withdrawals under specific circumstances described in **3.11** below.

**Note:** The above only applies to **mandatory** contributions. Voluntary contributions are not necessarily bound by the same rules. Voluntary contributions made by or in respect of a scheme member can be paid to the scheme member as provided by the governing rules of the scheme.

### **3.10 PORTABILITY**

#### **3.10.1 Employee Who Ceases Employment with His/Her Employer**

The accrued benefits of an employee can be transferred to another scheme when the employee ceases employment with his employer.

- (a) If an employee participates in a master trust scheme, on change of employment, the employee may transfer the accrued benefits to another MPF scheme to which the employee is eligible to join, or retain the benefits within the same master trust scheme in his own preserved account. If the employee would like to transfer his accrued benefits to the scheme of his new employer, all he needs to do is to submit a form to the trustee of the new scheme either directly or through his new employer. The trustees will then arrange the transfer amongst themselves.
- (b) If an employee is a member of an employer sponsored scheme, when the employee changes employment, the employee must transfer the accrued benefits from the previous employer's scheme to another scheme, i.e. to the scheme in which the new employer is participating or a scheme to which the employee is eligible to join.
- (c) If an employee is employed in an industry for which an industry scheme has been established, (i.e. catering or construction for the time being), and both the previous and the new employers have joined the same industry scheme, on change of employment within the same industry, the employee may retain the accrued benefits in the industry scheme. However, the employee may also choose to transfer the accrued benefits to a master trust scheme of his choice.

### **3.10.2 Self-employed Person Becomes an Employee of an Employer**

If a self-employed person who is a member of a master trust scheme or an industry scheme ceases to be self-employed and becomes an employee of an employer, the person may retain the accrued benefits in the existing account in the master trust scheme or the industry scheme, or transfer the accrued benefits to another master trust scheme or an industry scheme to which the person is eligible to belong. The person may also transfer the accrued benefits to the MPF scheme in which the new employer is participating.

### **3.10.3 Duties of the Trustee on the Transfer of Accrued Benefits**

#### **(a) Transferor Trustee**

The transferor trustee must ensure that the accrued benefits are transferred within 30 days after being notified by the transferee trustee of the transfer. Moreover, the transferor trustee has to give a transfer statement to the scheme member concerned containing particulars of the scheme member and the amount of accrued benefits transferred.

#### **(b) Transferee Trustee**

Upon receipt of the accrued benefits transferred from another MPF scheme, the transferee trustee has to give a written notice to the scheme member concerned confirming the amount received.

## **3.11 WITHDRAWAL OF BENEFITS**

Since the MPF system was introduced to assist members of the workforce save for their retirement, scheme members can only claim payment of their accrued benefits when they reach the retirement age of 65. Scheme members who have attained the age of 65 may withdraw the benefits accrued from mandatory contributions in their MPF schemes in a lump sum. However, early withdrawals are permitted under the following specific circumstances:

- (a) Early retirement** after reaching the age of 60 (and making a statutory declaration that the scheme member has permanently ceased employment/self-employment).
- (b) Permanent departure from Hong Kong** proof of permission to reside permanently elsewhere must be produced (and making a statutory declaration that the scheme member departed or will depart from Hong Kong permanently on a specified date) and such permanent departure can only be used as grounds to withdraw benefits once in a person's lifetime.
- (c) Death** which must be duly certified, the benefits are then paid to the legal personal representative.

- (d) **Total incapacity** which must be certified by a registered medical practitioner or registered Chinese medicine practitioner. The incapacity should relate to the work that the scheme member was last performing before becoming totally incapacitated.
- (e) **Small balance account** a total not exceeding HK\$5,000 (the claim must be accompanied by a statutory declaration), **but** such a withdrawal is **also** subject to the following:
- (i) the member does not intend to become employed or self-employed within the foreseeable future;
  - (ii) as at the date of the claim, at least 12 months have lapsed since the contribution day in respect of the latest contribution period; and
  - (iii) the member does not have any accrued benefits kept in any other MPF schemes.

The trustee must ensure that the accrued benefits are paid to the claimant not later than 30 days (if no contribution or contribution surcharge is outstanding) or 60 days (if there are outstanding contributions or contribution surcharges) after the lodgment of the claim. In addition, the trustee must provide a final benefit statement to the claimant containing the date and the amount of accrued benefits paid.

### 3.12 UNCLAIMED BENEFITS

- (a) The trustee may treat the accrued benefits as unclaimed benefits if:
- (i) a scheme member or some other person has become entitled to be paid his accrued benefits but no claim has been lodged and the trustee is unable to locate the member or other person, the trustee must, as soon as practicable after becoming so aware, take the steps as specified in (b) below. If the trustee cannot locate the member or other person within 6 months after taking the specified steps, the accrued benefits become unclaimed benefits at the end of that period.
  - (ii) a scheme member or some other person has lodged a claim with the trustee but the trustee is subsequently unable to locate the claimant before payment of the benefits, the trustee must, as soon as practicable after becoming so aware, take the steps as specified in (b) below. If the trustee cannot locate the claimant within 6 months after taking the specified steps, the accrued benefits become unclaimed benefits at the end of that period.
  - (iii) a scheme member has reached the retirement age and no claim has been lodged with the trustee, the trustee must give a notice to the member requesting him to elect whether he will retain his accrued benefits with the scheme or not. If no reply is received within 6 months after the notice was given and the trustee is unable to locate the member by any other means, the accrued benefits become unclaimed benefits at the end of that period. If a reply is received indicating that the member elects to retain the benefits within the scheme or no reply is received

but the member can be located, the trustee must serve the member with a benefit statement.

- (iv) a scheme member on whom a benefit statement has been served as mentioned in (iii) cannot be located subsequently while his accrued benefits are retained in the scheme, the trustee must, as soon as practicable, take the steps specified in (b) below. If the trustee is unable to locate the member within 6 months after taking the specified steps, the accrued benefits become unclaimed benefits.
  - (v) a cheque for payment of a scheme member's accrued benefits is not presented within 6 months from the issue date of the cheque ("Specified Period") and the trustee is not able to locate the claimant during the period of 6 months after the expiry of the Specified Period, the accrued benefits become unclaimed benefits at the end of the 6-month period. However, if the trustee receives a returned cheque before the expiry of the Specified Period, the trustee should take immediate follow-up action to locate the claimant.
- (b) The steps\* to be taken by approved trustees before they can classify the accrued benefits of a scheme member as unclaimed benefits are set out as follows:
- (i) Send the scheme member/person a notice to the last known residential and correspondence address(es), if available;
  - (ii) Make 3 attempts (at different times and dates) within 1 month, to locate the scheme member/person via other means of contact, if known (e.g. all contact phone number(s) or fax); and
  - (iii) Contact the employer concerned to obtain any contact information of the scheme member and if the contact information so obtained is different from that in the records of the trustee, repeat steps (i) and (ii) above (as the case may be).
- \* Apart from the steps requested above, trustees are encouraged, as far as reasonable, to use any possible communication means to contact the claimant.
- (c) The unclaimed benefits retained in the scheme continue to vest in the scheme members concerned.

### **3.13 OFFSETTING OF LONG SERVICE PAYMENTS/SEVERANCE PAYMENTS**

- (a) Under the provisions of the Employment Ordinance, an employee may become entitled to a **long service payment** or a **severance payment** from the employer on the occurrence of circumstances specified in that Ordinance. The employer is entitled to offset such payments out of the accrued benefits derived from the contributions made by the employer in respect of the employee in the MPF scheme.
- (b) The employer can apply to the **trustee** to deduct a relevant amount for this purpose for payment to a departing employee. Some examples include:

- (i) If the amount of benefits accrued from the employer's contributions is **HK\$55,000** and the amount of the long service payment is **HK\$80,000**, the employer should pay HK\$80,000 to the employee but he can apply to withdraw **HK\$55,000** from the employee's MPF account as reimbursement of his payment of HK\$80,000. The balance of **HK\$25,000** must be paid from the employer's own funds to the departing employee.
- (ii) If the long service payment is **HK\$40,000** (with accrued benefits as with (i) above), the employer can only request the trustee to reimburse the **HK\$40,000** paid to the departing employee after the long service payment has been paid. The remaining accrued benefits, namely the balance of **HK\$15,000** derived from the employer's contributions, together with those derived from the contributions made by the employee, have to be transferred to the MPF scheme designated by the employee and preserved until the employee retires. (These rules apply to mandatory contributions. The employee may choose to withdraw his voluntary contributions subject to the governing rules of the scheme.)
- (c) The employer should note that in offsetting long service payments or severance payments, he will need to comply with other requirements set out in the Employment Ordinance concerning such payments.

### 3.14 MAJOR OBLIGATIONS OF EMPLOYERS

These may be considered under a number of headings, as follows:

#### 3.14.1 Employers Who Are Not Exempt from MPFSO

An employer is required to arrange for all his relevant employees to join an MPF scheme. Duties imposed upon the employer include, for example:

- (a) selecting an MPF scheme (or schemes) from those available in the market, or arranging to set up an employer sponsored scheme;
- (b) arranging for all employees within the coverage of the MPFSO to join an MPF scheme within the time limits specified;
- (c) calculating individual employee's relevant income and amount of contribution for each contribution period;
- (d) deducting the relevant mandatory contribution from the employee's income and making the employer's contribution from his own funds;

**Note:** It is the **employer's** responsibility to ensure that both the employer's and the employee's contributions are made.

With effect from 1 December 2008, even if an employer fails to arrange for his employees to join an MPF scheme as required under (b) above, the employer is still obliged to ensure that both the employer's and the employee's contributions

are made. Such contributions need to be paid to the MPFA. The MPFA will then pay the contributions to the appropriate MPF scheme for the benefit of the employees concerned.

- (e) ensuring the mandatory contributions are paid to the trustee of the scheme on or before the stipulated contribution day as described under paragraph 3.7.1(a)(vi) of this Chapter;
- (f) providing the trustee with a remittance statement showing all relevant details of employees (not including casual employees in an industry scheme as described in paragraph 3.7.1(a)(viii) of this Chapter), relevant income and contributions;
- (g) providing each employee (other than casual employees in an industry scheme as described in paragraph 3.7.1(a)(ix) of this Chapter) with a monthly pay-record, showing the employee's relevant income and amount of contribution paid within 7 working days after the last contribution payment during a month.

### **3.14.2 When an Employee Ceases Employment**

- (a) When an employee ceases employment, the employer must give a written notice to the trustee of the scheme concerned no later than the 10th day after the month in which the employee concerned ceases employment. The employer may use the remittance statement to inform the trustee of the employee's cessation of employment and the date of cessation.
- (b) In cases where the former employer cannot be located or refuses to notify the trustee about the cessation of employment of the employee, the employee may give a written notice to the trustee to declare the employee's cessation of employment and the date of cessation. The notice given by the employee must be in a form approved by the MPFA.
- (c) If the employee has not informed the trustee of his transfer option within 30 days after the trustee receives his termination notice, the trustee should inform the employee, by written notice, of his different transfer options and the consequences of not electing any transfer options within the specified time limit. If the trustee has not received his election within 3 months after it receives the termination notice, the employee is deemed to elect to transfer his accrued benefits to a preserved account in the same scheme. Then the trustee will process the transfer accordingly.

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## *Representative Examination Questions*

### Type “A” Questions

- 1 The MPF legislation includes a “non-refusal of scheme applicants” provision. The meaning of this is that:
- (a) the MPFA cannot refuse to register a scheme; .....
  - (b) everyone in Hong Kong is included within the scheme; .....
  - (c) nobody can be rejected on the ground of sex or ethnic origin; .....
  - (d) a person who complies with all requirements on enrolment/participation cannot be refused. ....
- [Answer is in **3.6.3**]

- 2 Which of the following contributions are vested fully and immediately to the scheme member concerned when they are paid to the trustee of the MPF scheme?
- (a) voluntary contributions made by the employer only; .....
  - (b) mandatory contributions made by the employee only; .....
  - (c) mandatory contributions made by the employer only; .....
  - (d) mandatory contributions made by both the employee and employer. ....
- [Answer is in **3.8**]

### Type “B” Questions

- 3 Which **two** of the following represent the limits of “relevant income”, for the purposes of an employee’s mandatory contribution to an MPF scheme?
- (i) Minimum relevant income level - HK\$5,000 per month
  - (ii) Minimum relevant income level - HK\$6,000 per month
  - (iii) Maximum relevant income level - HK\$20,000 per month
  - (iv) Maximum of HK\$30,000 per month
- (a) (i) and (iii); .....
  - (b) (i) and (iv); .....
  - (c) (ii) and (iii); .....
  - (d) (ii) and (iv). ....
- [Answer is in **3.7.1**]

4 Which of the following statements is/are **true**, if the relevant income of an employee under an employer sponsored scheme is only HK\$3,000 in a particular month?

- (i) the employer has to pay a HK\$150 mandatory contribution
- (ii) the employer does not have to pay a mandatory contribution
- (iii) the employee does not have to pay a mandatory contribution
- (iv) neither the employer nor the employee has to pay a mandatory contribution

- (a) (i) only; .....
- (b) (i) and (ii) only; .....
- (c) (i) and (iii) only; .....
- (d) (i), (ii), (iii) and (iv). .....

[Answer is in **3.7.1**]

5 Which **three** of the following statements are correct in relation to the tax situation with MPF contributions and benefits?

- (i) all benefits accrued from mandatory contributions, when payable, are exempt from tax
- (ii) all contributions are not tax deductible
- (iii) employee's mandatory contributions are tax deductible (limited to HK\$12,000 per year)
- (iv) employer's contributions are tax deductible (limited to 15% of the employees' emoluments paid)

- (a) (i), (ii) and (iii); .....
- (b) (i), (ii) and (iv); .....
- (c) (i), (iii) and (iv); .....
- (d) (ii), (iii) and (iv). .....

[Answer is in **3.7.3**]

*[If required, answers may be found at the end of the Study Notes.]*

## 4 MPF TRUSTEES

Under the MPF system, all MPF schemes must be administered, managed and maintained by a “trustee” who is an “approved trustee”.

### 4.1 TRUST ARRANGEMENT

#### 4.1.1 Concept of Trust

The salient features of a trust are as follows:

- (a) A trust is an arrangement whereby the trustee is made the **registered owner** of certain property, which is held for the benefit of others, who are known as “**beneficiaries**”.
- (b) The term “property” in (a) above is used in its widest legal sense namely, that a trustee holds – or is “entrusted” with – the assets in the trust.
- (c) There may be more than one trustee appointed for one trust.
- (d) A trustee may be either an individual (natural person) or a corporation (company).
- (e) Although the trustee is the registered owner, he is **not the beneficial owner**. He therefore cannot give away the property in the trust, nor can he benefit from it, other than as permitted under the terms of the trust.
- (f) Any income which the trust property generates belongs to the **beneficiaries** and any profit made from the trust property accrues for the interest of the beneficiaries.
- (g) Normally, a trust is established by a legal document generally known as a “**trust deed**”.
- (h) All the duties, powers and rights of the trustee and the beneficiaries in respect of the trust are clearly stipulated in the trust deed.
- (i) If the trustee deals with the trust property in a way that is contrary to the provisions of the trust deed, this constitutes a **breach of trust**, and the trustee is liable to the beneficiaries for all the losses or reduction in trust properties caused by the breach.
- (j) From the above, it is obvious that being a trustee is a considerable responsibility, and it is very important that only people of integrity act as trustees.

### **4.1.2 Fiduciary Duties of Trustees**

The word “fiduciary” comes from a root word meaning to have faith or “trust” in someone. It implies that considerable discretion and confidence are expected from the trustee. In general terms, their duties include the following:

- (a) to exercise any discretion in the interests of the beneficiaries of the trust as a whole (this is a primary trust law obligation);
- (b) to exercise a high degree of diligence and care with the management and security of the fund;
- (c) to ensure that money is only paid to those eligible at the time the entitlement arises;
- (d) to keep proper and adequate accounts and other records, which must be available to all entitled to see them;
- (e) to ensure that assets are wisely and properly invested;
- (f) to ensure that the trust is administered in accordance with the laws and the trust deeds; and
- (g) to hold the trust properties on behalf of the beneficiaries and to act in the interest of beneficiaries and not in the trustee’s own interest.

### **4.1.3 Recourse against Trustees**

The recourse against trustees can be categorized as:

- (a) **Restoration**
  - (i) A trustee is liable for breach of trust if he fails to perform the duties that are required of him as a trustee, or if he does what he is not entitled to do as a trustee. That means, should a breach of trust occurs, and the trust properties become lost or reduced, the beneficiaries are entitled to take legal action against the trustee to recover the loss.
  - (ii) A defaulting trustee that causes loss or damage to the trust property must, at the trustee’s own cost, restore the property. If the property in question cannot be returned or restored, the trustee would be required to pay sufficient compensation. That is, the trustee must not apply the assets of the MPF scheme to indemnify his liabilities as a result of his mistake that causes loss or reduction of scheme assets.

(b) **Accountability**

All profits made by the trustee from the trust properties must be transferred to the beneficiaries.

#### **4.1.4 Advantages of the Trust Arrangement**

The advantage of a trust arrangement is that even if the scheme trustee, other service providers or the employer is in financial difficulties, the creditor cannot request the trustee, other service providers or the employer to make use of the assets under trusteeship to repay a debt. In other words, trust arrangement provides basic protection for scheme members.

## **4.2 CATEGORIES OF TRUSTEES**

There are **three** categories of trustees:

- (a) local corporate trustee;
- (b) offshore (outside Hong Kong) corporate trustee;
- (c) individual (natural person) trustee.

All master trust schemes and industry schemes must be managed by corporate trustees. Individuals may act as trustees only in respect of employer sponsored schemes.

## **4.3 DUTIES AND FUNCTIONS OF TRUSTEES**

The approved trustee is the central party responsible for all scheme management functions. Although the trustee may appoint other service providers to perform the scheme functions (see **3.2**), it has the duty to closely monitor the performance of those service providers in order to fulfil its fiduciary duties with respect to the scheme. The MPFSO and General Regulation specify many detailed requirements for trustees, breaches of which could constitute criminal offences, incur penalties or result in suspension of scheme administration, or revocation of approval as approved trustees. In general terms, their duties would include the following:

- (a) to secure scheme registration;
- (b) to ensure maintenance of adequate capital and professional indemnity insurance;
- (c) to maintain investment policy statements, control objectives and internal control procedures;
- (d) to exercise a level of care, skill, diligence and prudence (“Prudent Man’s Rule”);
- (e) to ensure that the funds of the scheme are invested in different investments so as to minimize investment risks;
- (f) to act in the interest of scheme members and in accordance with the governing rules of the scheme;

- (g) to provide information to scheme members, including scheme information, membership certificates and benefit statements;
- (h) to receive contributions and verify mandatory contribution calculations;
- (i) to process transfer and payment requests;
- (j) to keep proper accounting records and members' register; and
- (k) to prepare and lodge annual audited financial statements, scheme reports and investment reports of MPF schemes with the MPFA.

#### **4.4 APPROVAL OF TRUSTEES**

All persons purporting to be trustees of MPF schemes must apply to the MPFA for approval.

##### **(a) Corporate Trustee**

In general terms, the approval requirements in respect of a corporate trustee include:

##### **(i) Capital adequacy and financial soundness**

Corporate trustees must have paid-up share capital and net assets of at least HK\$150 million each (HK\$30 million is acceptable if the trustee has continuous financial support from an associated substantial financial institution).

##### **(ii) Suitability**

The directors and the chief executive officer of the trustee must be "suitable" persons, i.e. they are of good reputation and character. The chief executive officer and a majority of the directors (which must include an independent director) must possess sufficient skills, knowledge and expertise.

##### **(iii) Capability**

The trustee must be capable of carrying on a business of administering MPF schemes and have proper internal control procedures.

##### **(iv) Presence and control**

The trustee must have sufficient presence and control in Hong Kong.

##### **(b) Offshore Corporate Trustee**

An offshore corporate trustee must meet additional criteria e.g. it must be supervised by an offshore authority that is acceptable to the MPFA, and the standards of the local trust and company laws are comparable to those in Hong Kong. This ensures that scheme members enjoy the same degree of protection.

(c) **Individual Trustee**

An individual trustee must ordinarily reside in Hong Kong and be of good reputation and character. An individual trustee (natural person, as opposed to company) will be required to provide **performance guarantee**, in the form of an insurance policy or a bank guarantee, covering losses from the trustee's failure to perform or other breach of duties. This performance guarantee must be for **10%** of the **net asset value** of the scheme, with a maximum of HK\$10 million. If an individual is to be appointed as a trustee, there must be at least two such trustees.

## **4.5 ON-GOING MONITORING**

It must never be assumed that once a scheme has been launched it will carry on without problems or any need for further supervision. Adequate monitoring of trustee performance and compliance with requirements must therefore be an on-going process. Some ways in which the MPFA performs this on-going monitoring function include:

- (a) requiring trustees to have internal control and procedures to ensure compliance with requirements;
- (b) scrutinizing the regular reports and returns submitted;
- (c) conducting regular field inspections (site visits), with or without notice;
- (d) requesting additional information e.g. contribution records etc;
- (e) requiring scheme members to report to the MPFA on (suspected) cases of non-compliance;
- (f) conducting investigations where it reasonably believes that MPF requirements have or might have been breached;
- (g) investigating any other situation where it believes that the interests of scheme members may be adversely affected;
- (h) requesting "whistle blowing" reports from other service providers (e.g. auditors) of an MPF scheme in respect of the performance of the trustee; and
- (i) requiring rectification of any deficiencies.

## **4.6 COMPLIANCE STANDARDS FOR MPF APPROVED TRUSTEES**

To enhance the effective operation of the MPF system, the MPFA promotes a positive compliance culture, good corporate governance and proper risk management among the approved trustees. The MPFA has developed a set of Compliance Standards for the guidance of approved trustees in establishing a structured framework for monitoring their compliance with statutory duties and responsibilities. There are eight standards, each accompanied by detailed explanatory notes and examples.

#### Standard 1 – Compliance Programme to Address Statutory Obligations

- (a) An approved trustee should have a compliance programme which provides a framework enabling the approved trustee to monitor and ensure compliance with its obligations, as well as to address any compliance breach issues.

#### Standard 2 – Compliance Policy

- (a) An approved trustee should develop and maintain a compliance policy that drives the organization towards a positive compliance culture and encourages compliance practices.
- (b) The compliance policy should be endorsed by the approved trustee's Board of Directors and be readily available to management, staff and service providers.

#### Standard 3 – Compliance Resources

- (a) An approved trustee should have adequate and independent compliance resources to monitor its compliance and ensure that compliance reporting is timely, accurate and complete.

#### Standard 4 – Compliance Training and Communication

- (a) An approved trustee should achieve and sustain a positive compliance culture by ensuring that relevant staff understand their roles in meeting the trustee's statutory obligations.

#### Standard 5 – Complaints Handling Procedures

- (a) An approved trustee should have in place measures that enable the proactive and timely management of complaints from scheme members and participating employers.

#### Standard 6 – Compliance Programme Maintenance and Review

- (a) An approved trustee should monitor the effectiveness of its compliance programme by having measures in place for its maintenance and review.

#### Standard 7 – Reporting Mechanism to the Board of Directors including the Independent Director

- (a) The Board, including the independent director, should be provided with timely and accurate information so that they are able to take responsibility for monitoring compliance of an approved trustee's operation.

#### Standard 8 – Compliance Plan to Address Identified Obligations

- (a) An approved trustee should have in place compliance measures that enables it to effectively identify, monitor, supervise and report on its statutory obligations.

## 4.7 SANCTIONS AND PENALTIES

The MPFA investigates cases of suspected non-compliance with these requirements.

- (a) For minor cases of non-compliance, the MPFA may issue **warnings** or impose **financial penalties**, and order the trustee to take remedial action.
  - (i) Schedule 4 of the General Regulation prescribes different levels of financial penalties for minor failures to comply with administrative requirements. The penalties range from HK\$5,000 to HK\$50,000.
- (b) For more serious cases, the MPFA may require a special audit to be conducted on the trustee.
  - (i) During the investigation, the MPFA may **suspend** the trustee from administration of an MPF scheme, and appoint another trustee to administer the scheme on a temporary basis.
  - (ii) Depending on the results of the investigation, the MPFA may **revoke** the approval of the trustee and **terminate** the trustee's administration of the scheme, as well as **prosecute** the trustee for serious non-compliance with regulations.
  - (iii) Violations of a more serious nature constitute a criminal offence. An approved trustee who is convicted of an offence is liable to a maximum fine of HK\$200,000 and imprisonment for up to 2 years.

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## *Representative Examination Questions*

### **Type “A” Questions**

- 1 Under the law of trusts, the trustee is considered to be:
- (a) the registered owner of the trust assets;
  - (b) the beneficial owner of the trust assets;
  - (c) totally independent and unconnected with the trust assets;
  - (d) none of the above.
- [Answer is in **4.1.1**]
- 2 Which of the following is **not** one of the Compliance Standards for MPF Approved Trustees?
- (a) Complaints Handling Procedures;
  - (b) Compliance Plan to Address Identified Obligations;
  - (c) Compliance Policy;
  - (d) Risk Management Plan.
- [Answer is in **4.6**]

### **Type “B” Questions**

- 3 Which **three** of the following are approval criteria required in the appointment of a trustee for an MPF scheme?
- (i) fit and proper person
  - (ii) must have been a trustee before
  - (iii) adequate capital and financial soundness
  - (iv) capable of carrying on a business of administering MPF schemes
- (a) (i), (ii) and (iii);
  - (b) (i), (ii) and (iv);
  - (c) (i), (iii) and (iv);
  - (d) (ii), (iii) and (iv).
- [Answer is in **4.4**]

*[If required, answers may be found at the end of the Study Notes.]*

## 5 MPF SCHEMES AND INVESTMENT

### 5.1 REGISTRATION OF MPF SCHEMES AND APPROVAL OF CONSTITUENT FUNDS

Being collective investment schemes, MPF schemes and constituent funds must be approved by the MPFA and authorized by the SFC. Both the MPFA and the SFC have issued codes relating to MPF products, but the codes serve different purposes with each specifying requirements relating to different aspects of MPF products.

- (a) Generally speaking, the MPFA is responsible for registering MPF schemes and approving constituent funds and pooled investment funds. Therefore, the **Code on MPF Investment Funds** focuses on the operational and investment aspects that MPF products must comply with and specifies requirements additional to those prescribed in the MPF legislation. It also specifies the delineation of work between the MPFA and the SFC concerning the approval/authorization of these products.
- (b) On the other hand, the SFC is responsible for authorizing MPF schemes, constituent funds and pooled investment funds, vetting/authorizing the disclosure of information in offering documents, advertisements and marketing materials and licensing investment managers. As such, the **SFC Code on MPF Products** sets out the requirements for the authorization of master trust schemes, industry schemes and pooled investment funds, as well as disclosure requirements on offering documents. Advertisements and other invitations or documents issued to the public in Hong Kong to invest or participate in master trust schemes, industry schemes and pooled investment funds must comply with the Advertising Guidelines issued by the SFC. The SFC Code on MPF Products also specifies the requirements on the qualifications and experience of the investment managers who manage the products.
- (c) The Code on MPF Investment Funds and the SFC Code on MPF Products are complementary to each other.

### 5.2 MPF SCHEMES

As mentioned in Chapter 3, there are three types of MPF schemes, namely employer sponsored schemes, master trust schemes and industry schemes. Each of these schemes consists of constituent funds into which scheme members invest their contributions and accrued benefits.

### 5.3 CONSTITUENT FUNDS

#### 5.3.1 Features of Constituent Funds

An MPF scheme, whether employer sponsored, master trust or industry scheme, may consist of a number of constituent funds. Constituent funds are investment funds within an MPF scheme into which scheme members invest their

contributions and accrued benefits. Each scheme member is entitled to decide which of the constituent fund(s) of the scheme to invest in.

All constituent funds have to meet the following requirements:

- (a) each constituent fund within a scheme must have a **different investment policy**, so that members have a choice in investing their accrued benefits;
- (b) all constituent funds within an MPF scheme must be made available to all scheme members;
- (c) a constituent fund may maintain a portfolio of direct investment in equities, bonds, etc or invest in approved pooled investment funds;
- (d) a constituent fund must be governed by **Hong Kong law** and denominated in **HK dollars**;
- (e) a constituent fund must have at least **one regular dealing day per month**;
- (f) all constituent funds must be **unitized** except for those which are non-investment linked and provide investment guarantees;
- (g) there must be an **MPF Conservative Fund (pursuant to section 37 of General Regulation)** in each scheme;
- (h) for master trust and industry schemes, prices of unitized constituent funds must be **published** at least **once a month** in at least one leading English and Chinese language daily newspaper in Hong Kong. For employer sponsored scheme, the approved trustee may choose other means to release such information to scheme members.

### 5.3.2 Types of Constituent Funds

#### (a) **MPF Conservative Fund**

At least one of the constituent funds of an MPF scheme must be an MPF conservative fund. As suggested by the name of the fund, its intention is to offer members a relatively conservative option of investment. It should be noted that the MPF conservative fund is not a guaranteed fund. In times of high inflation, it is possible that the rate of return of the MPF conservative fund may not catch up with the rate of inflation.

Certain safeguards have been built into an MPF conservative fund, as follows:

- (i) it must be **100%** invested in HK dollar investments;
- (ii) the funds must be placed in short-term bank deposits or invested in short-term debt securities that are issued or guaranteed by the

government or an authority of similar standing, or meet the minimum short term credit rating set by the MPFA;

- (iii) the average investment period must not exceed **90 days**;
- (iv) investments in equities or commodities are strictly prohibited;
- (v) must perform **monthly** reporting to the MPFA;
- (vi) **administrative expenses** (such as trustee, custodian, investment management and administration fees) for running the fund cannot be deducted from the fund in any particular month, unless the achieved investment earnings of the fund for that month exceed the earnings calculated based on the prescribed savings rate (as declared by the MPFA) for the same month;
- (vii) neither initial fees nor redemption charges can be imposed on an MPF conservative fund. Bid and offer spread is also not allowed.

The two main objectives of an MPF conservative fund are:

- (i) to provide a low investment risk product, with minimum exposure to market fluctuations; and
- (ii) to produce a net investment return for scheme members comparable to banks' savings rate.

(b) **Guaranteed Fund**

A guaranteed fund operates in a very different style to an MPF conservative fund. Depending on the terms of the guarantee, it can be a conservative fund or a low investment risk fund. However, holders of guaranteed funds are subject to the additional risk that they may not meet the qualifying conditions for the guarantee.

Basically, there are two types of “guaranteed” fund:

- (i) The first type provides a “**hard**” guarantee which promises to pay a minimum net return without imposing any qualifying conditions for the guarantee.
- (ii) The second type provides a “**soft**” guarantee which promises to pay a minimum return when the fund holder meets certain qualifying conditions imposed by the guarantor. Usually the guarantee is in the form of a “career average” in which the minimum return is expressed as an average rate compounded over the period of employment for which the guaranteed fund has been held.

In general, most guaranteed funds guarantee one of the following:

- (i) capital guarantee i.e. guaranteeing the total amount of MPF contributions; or
- (ii) return guarantee i.e. guaranteeing the total amount of MPF contributions plus a rate of return on investment.

In terms of the degree of linkage to investment returns, guaranteed funds may also be divided into three types:

- (i) Fully investment-linked  
The unit price of this kind of guaranteed fund floats according to its net asset value. Apart from the guarantee that it offers and the guarantee fee or reserve charge, this kind of guaranteed fund is actually similar to a non-guaranteed fund.
- (ii) Non-investment-linked  
With this type of guaranteed fund, the unit price does not reflect the net asset value of the fund. The investor will generally receive at least the guaranteed return but may not benefit from any earnings over and above the guaranteed amount. Guaranteed funds of this kind are normally more conservative in investment policy and offer a relatively low guaranteed minimum rate of return.
- (iii) Partially investment-linked  
This kind of guaranteed fund is a variation of the fully investment-linked guaranteed fund, in which the unit price varies according to a mechanism that takes into account the net asset value of the fund.

Most guaranteed funds available in the market are “soft” guaranteed funds requiring that a minimum period of investment be met and/or that the guarantee will only be provided under specified “qualifying events”, such as the attainment of the retirement age of 65, total incapacity or permanent departure from Hong Kong. Redemption of accrued benefits from guaranteed funds under such circumstances may give the investor the higher of the guaranteed return or the actual return.

If an investor redeems his guaranteed fund prior to the occurrence of a qualifying event, he will receive an amount that reflects the actual investment return. This amount may be higher or lower than the guaranteed return.

Some important features of guaranteed funds include:

- (i) Minimum investment period  
During this period, if one switches out of the guaranteed fund or if the employer switches to another scheme, the guarantee becomes void.
- (ii) Limited guaranteed period

Some guaranteed funds have a fixed guarantee period, e.g. three years. When the guaranteed period expires, the fund automatically becomes a non-guaranteed fund.

(iii) **Withdrawal**

The investment guarantee may only be applicable to withdrawal of accrued benefits under specific circumstances such as reaching age 65, early retirement, death, total incapacity, etc.

(iv) **Cancellation or modification of guarantee**

The guarantor may unilaterally change the guaranteed rate by giving advance notice of, say, 3 or 6 months, or even cancel the guarantee in unfavourable market conditions.

(v) **Retained investment earnings**

The guarantor may have the discretionary power to retain part or all of the investment earnings of the guaranteed fund. The retained investment earnings may be either taken as profit for the guarantor or used to offset any under performance of the fund at other times.

(vi) **Reserve charge**

A reserve charge or guarantee fee will be deducted from the fund assets. Some guaranteed funds offer an exemption of the reserve charge.

A minimum return guarantee is often applied to the average return of investment over a long period of time (so that the fund has a sufficiently long period of time to achieve a stable performance above the minimum guarantee level).

The major risk, though usually small, faced by an investor of a guaranteed fund is the default risk of the guarantor, i.e. the inability of the guarantor to fulfill its financial obligations. However, all guarantors are required to maintain sufficient assets as reserves or provisions to support their obligations for the investment guarantees.

(c) **Other Types of Funds**

In addition to the above-mentioned funds, there is a range of different kinds of constituent funds offered by MPF service providers. They vary from conservative funds (such as money market funds, bond funds) to aggressive funds (such as equity funds, growth funds). Regardless of the type of fund, it should be emphasized that investments involve risk and investment returns are affected by prevailing economic and market conditions. Care should be taken in choosing a fund that meets one's financial situation and objectives.

The following funds are also commonly found in an MPF scheme:

(i) Money Market Fund

Money market funds mainly invest in short-term instruments such as treasury bills, certificates of deposit, commercial papers, etc. Given the short life span of the investments and the interest rate sensitivity, the credit risk of money market funds is fairly low. This type of fund is the least risky compared with other types of funds, but its return is usually slightly higher than that earned from savings deposits.

(ii) Bond Fund

A bond fund primarily invests in bonds which are debt securities issued by governments, public utilities, banks, commercial organizations and supranational agencies like the World Bank. A bond issuer promises to pay interest during the life of the bond and repay the principal upon maturity of the bond.

A bond fund may earn its income from interests generated by the bonds held by the fund. The fund may either hold the bonds till maturity and get back the principal from the issuers, or trade the bonds, taking advantage of market movements. Generally, a bond fund aims to achieve a modest but stable level of income; capital appreciation is of secondary importance.

Bond funds can be categorized by the term to maturity of the bonds in which they invest. Long-term bond funds invest in bonds with at least 10 years to maturity; medium-term bond funds in bonds with 3 to 10 years to maturity and short-term bond funds in bonds of less than 3 years to maturity.

Some bonds offer fixed interest rates while others offer floating rates. In general, the longer the maturity of the bonds, the more susceptible are the bond prices to interest rate movements. Accordingly, long-term bonds will tend to offer a higher yield to compensate investors for the increased exposure to interest rate fluctuations.

Aside from the yield offered by a bond fund, the credit ratings of the bonds that the fund invests in should also be considered as they indicate the degree of risk involved in investing in the fund. The higher the credit rating of the bonds, the lower the risk of the fund that invests in them.

(iii) Mixed Assets (or Balanced) Fund

A mixed assets fund, which is also called a balanced fund, is an investment mix of bonds and equities (stocks). There are many mixed assets funds offered in the MPF market, though they may be called by other names.

A typical mixed assets fund invests in both stock markets and bond markets, either globally or regionally (e.g. Asia or North American), in

order to reduce the overall risk as well as to take advantage of investment opportunities in different markets and economies. Therefore, the risk level of this kind of fund is usually somewhere between that of a bond fund and an equity fund.

As a rule of thumb, the higher the proportion invested in equities, the higher the risk. The more countries the fund invests in, the lower the risk.

Due to the investment mix of the fund, the expected return of a mixed assets fund is usually higher than that of a bond fund but below than that of an equity fund.

(iv) Equity Fund

An equity fund primarily invests in equities traded on stock exchanges. Through investment in stocks of companies, an equity fund aims to achieve a high rate of return through capital appreciation over a period of time. However, since stock markets may go up or down quite substantially in a short period of time, the price of an equity fund could be volatile at times.

There are many different types of equity funds. Some are characterized by the countries that they invest in, such as a global fund that invests in global equity markets or a country fund that invests in a single country.

In general, the more markets that the fund invests in, the lower the risk and the more stable the expected returns.

(v) Index-tracking Fund

An index-tracking fund is a collective investment scheme with the primary objective of tracking or replicating the investment performance of an index in either equities or debt securities. Such funds aim at producing or achieving investment returns that closely match or correspond to the performance of the index being tracked.

An index-tracking fund may seek to track a particular index by investing all or substantially all of its assets in the constituent securities of the underlying index, either in proportion to their respective weightings or in a representative sample of the constituent securities of that index.

## 5.4 APPROVED POOLED INVESTMENT FUNDS (“APIFs”)

### 5.4.1 Approval of Pooled Investment Funds

If a constituent fund is structured not to operate as an internal portfolio, it may invest in pooled investment funds that are approved by the MPFA. The MPFA is responsible for approving pooled investment funds in accordance with the requirements set out in the General Regulation and the **Code on MPF Investment Funds**.

For pooled investment funds that are offered to MPF schemes only, the SFC authorizes the funds in accordance with the requirements set out in **SFC Code on MPF Products**.

For pooled investment funds that are unit trusts available to both MPF service providers and retail investors, the SFC authorizes the funds in accordance with the requirements set out in both the **SFC Code on MPF Products and the Code on Unit Trusts and Mutual Funds**.

### 5.4.2 Types of Pooled Investment Funds

A constituent fund may invest in one or more approved pooled investment funds. An APIF may be an **insurance policy**, a **unit trust** or a **mutual fund** (although under current Hong Kong law, it would not be practical to establish a mutual fund). Similar to constituent funds, APIFs must be governed by **Hong Kong law**.

#### (a) Unit Trusts

A pooled investment fund, if in the form of unit trust, must be authorized as a collective investment scheme by the SFC under section 104 of the Securities and Futures Ordinance.

#### (b) Insurance Policies

An APIF, if in the form of an insurance policy, must be issued by an authorized insurer as either class G or H insurance business (Class G and H insurance policies are long term insurance policies for the purpose of providing retirement-related benefits. A Class G insurance policy provides a guarantee on capital or return whilst a class H insurance policy does not provide any form of guarantee). Similar to a unit trust, it must be authorized as a collective investment scheme by the SFC under section 104 of the Securities and Futures Ordinance.

**Note:** Whether APIFs are in the form of unit trusts or insurance policies, they must be approved by the MPFA subject to the investment standards applicable to MPF investment funds.

## 5.5 STATEMENT OF INVESTMENT POLICY

The MPF legislation requires a statement of investment policy to be prepared and maintained in respect of each constituent fund and APIF to ensure a high degree of **transparency** in the operation of MPF schemes and APIFs (i.e. members should not be confused or uninformed in relation to the scheme investments). As such, the statement of investment policy for each constituent fund and APIF must clearly indicate:

- (a) the investment objectives of the fund;
- (b) the kinds of securities and other assets in which the fund may invest;
- (c) the balance (proportion) between various kinds of securities and markets;
- (d) the risk of the investment strategy of the overall portfolio;
- (e) the expected return of the overall portfolio;
- (f) the policy regarding the acquisition, holding and disposal of financial futures and option contracts; and
- (g) whether the fund will engage in securities lending.

## 5.6 INVESTMENT STANDARDS AND RESTRICTIONS

To safeguard scheme members against undue investment risk, comprehensive regulations governing the investment of scheme assets have been prescribed in the MPF legislation. In summary, these have the following aims:

- (a) to ensure prudent and sound investment management;
- (b) to ensure that investment portfolios meet all required standards; and
- (c) to ensure that investments are well-diversified.

### 5.6.1 Investment Management

#### (a) Requirements of Investment Manager

- (i) The primary investment manager of an MPF scheme/APIF must be a **locally incorporated** investment management company, with at least **HK\$10 million** paid-up share capital and net assets of at least the same amount.
- (ii) The investment manager must be licensed by or registered with, the SFC to carry on a business of Type 9 (asset management) regulated activity.
- (iii) The investment manager must be qualified and experienced in the various financial services and products it manages or in which it invests.

- (iv) The investment manager must be independent of the trustee and the custodian(s) of the MPF scheme/APIF and of any delegates of the custodian.
  - (v) The investment management of MPF funds is subject to the **Prudent Man’s Rule and other investment restrictions as set out in the law.**
- (b) **Delegates of The Investment Manager**
- (i) With the approval of the trustee, the investment manager of an MPF scheme/APIF may delegate the investment management functions to a company/corporation that complies with the requirements set out in the General Regulation.
  - (ii) The delegate of the investment manager must be independent of the trustee and custodian of the MPF scheme/APIF and of any delegates of the custodian.

## 5.6.2 Permissible Investments

A balance must be struck between the desire to safeguard assets and to allow a reasonable degree of flexibility for the investment manager in making investment decisions. A list of permissible investments for MPF schemes/APIFs has therefore been specified by law and includes investments such as:

- (a) **Equities and Other Securities**
- Including fully-paid up shares listed on approved stock exchanges, index-tracking collective investment schemes approved by the MPFA, securities listed on approved stock exchanges that are approved by the MPFA, such as fully-paid up receipts or certificates listed on approved stock exchanges (with underlying shares also listed on stock exchanges), including American Depository Receipts (“ADR”) and Global Depository Receipts (“GDR”), and to a limited extent, authorized unit trusts, and authorized mutual funds. Acquisition of partly paid-up shares and shares of collective investment schemes are not allowed for MPF investment purposes. Investments in equities and other securities are subject to prescribed limits.
- (b) **Bank Deposits**
- Bank deposits (“pure” deposit) must be placed with authorized financial institutions or eligible banks and are subject to prescribed percentage limits to avoid an unduly large proportion of the funds deposited with one single financial institution.
- (c) **Debt Securities and Convertible Debt Securities**
- Debt securities must be issued or guaranteed by a government or an organization of similar standing; or meet the credit rating requirements set by the Authority; or be listed on approved stock exchanges (if the debt securities are issued by, or guaranteed by, companies whose shares are so listed). Convertible debt

securities listed on approved stock exchanges and convertible to shares that also listed on approved stock exchanges; or meet the credit rating requirements, are also permissible investments.

(d) **Financial Derivatives**

Financial derivatives including financial futures and option contracts and currency forward contracts may be acquired subject to the restrictions as set out in the General Regulation. Warrants, another kind of financial derivatives, may only account for a maximum of 5% of the total funds of a constituent fund or APIF.

### 5.6.3 Other Investment Restrictions

(a) **Restrictions on Borrowing and Lending of Securities**

- (i) No constituent fund of an MPF scheme or APIF may borrow securities.
- (ii) Securities held within a constituent fund of an MPF scheme or APIF may be lent provided no more than 10 per cent of the assets of the fund are lent. The lending is also subject to other requirements set out in the General Regulation.

(b) **Restrictions on Borrowing of Money**

Money may be borrowed only if it is borrowed for the purpose of:

- (i) enabling accrued benefits to be paid to or in respect of scheme members;
- (ii) settling a transaction relating to the acquisition of securities or other investments.

The above is further subject to other requirements set out in the General Regulation.

(c) **Restrictions on Acquiring Securities that Carry an Unlimited Liability**

Securities involving the assumption of potential liabilities that are unlimited must not be acquired.

### 5.6.4 Hong Kong Dollar Currency Exposure

At least 30% of a constituent fund of an MPF scheme must be held in Hong Kong dollar currency investments (i.e. investments that are denominated in Hong Kong dollars and their values are not linked to foreign currencies). Currency forward contracts may be used to meet this requirement.

## 5.7 FEES AND CHARGES

Broadly speaking, fees charged on MPF schemes can be categorized into three types:

- (a) Asset-based fees such as trustee, custodian and investment management fees.
- (b) Lump sums charged to scheme members on an annual or one-off basis, such as joining fees or annual membership fees.
- (c) Event-based fees such as fees imposed on scheme members for investment directives they submit to the trustees.

The level of fees charged by trustees and service providers are mainly driven by competition and market forces. In general, the MPFA does not regulate the level of fees, however, certain requirements have to be observed by trustees and service providers, including:

- (a) The current and maximum levels of fees must be clearly communicated to scheme members.
- (b) Any amendments to the maximum level of fees have to be approved by the MPFA and the SFC before they take effect.
- (c) No additional initial charge can be imposed in relation to the management of a fund if the manager of the fund, or an associate of that manager, manages the relevant constituent fund.
- (d) For an MPF conservative fund, administrative expenses can only be deducted if the returns of the fund exceed the prescribed savings rate declared by the MPFA. Initial fees, redemption charges and bid and offer spreads are not allowed.

## 5.8 SWITCHING BETWEEN MPF SCHEMES/CONSTITUENT FUNDS

Important features of this include:

- (a) Scheme members may choose to invest their contributions in any constituent funds under the MPF scheme in which they participate.
- (b) Scheme members are allowed to change the choice of constituent funds at least **once a year**.
- (c) Employers may elect to participate in another MPF scheme by transferring the accrued benefits of their employees to the other scheme.
- (d) If there is a change in the ownership of a business, the new employer may elect to participate in another MPF scheme by transferring the accrued benefits of its employees to another scheme if the new employer has agreed to recognize the employees' length of employment with the previous employer and has assumed the

liability of the previous employer for long service payment or severance payment in respect of the employees.

- (e) Upon termination of employment, an employee may choose to have his accrued benefits remain in the scheme or he may transfer them to an MPF scheme of his own choice, or to the MPF scheme of the new employer.
- (f) Regardless of the frequency and type of transfer of accrued benefits, no fees or financial penalties other than bid/offer spread can be imposed.

## **5.9 CODE ON DISCLOSURE FOR MPF INVESTMENT FUNDS**

To ensure employers and scheme members are provided with adequate information to enable them to make informed investment decisions, the MPFA has issued a Code on Disclosure for MPF Investment Funds to give guidance to trustees and other service providers about the disclosure of information on MPF schemes and constituent funds and information about fees, charges and performance. In summary, trustees are required to provide the following information to employers and scheme members:

### **(a) Fee Table**

In order to facilitate comparison and an “at a glance” understanding of fees and charges, all fees and charges are disclosed in a consistent manner and format in a fee table which includes:

- (i) all fees and charges;
- (ii) what a particular fee is for;
- (iii) the amount of each fee currently charged; and
- (iv) from whom each fee is payable.

The Fee Table must be included in the offering documents of the schemes.

### **(b) On-going Cost Illustrations (“OCI”)**

This provides members and potential members with an on-going cost illustration that shows in dollar terms, the costs that may be incurred by investing in a fund across defined time horizons based on a set of consistent assumptions. The OCI forms part of or is an accompaniment to the scheme offering document, and must be updated annually using the latest fund expense ratio data.

For those constituent funds that are MPF conservative funds, certain guaranteed funds and newly launched funds, no OCI is required. However, a separate illustrative example is required for MPF conservative funds.

### **(c) Fund Fact Sheet**

To ensure that scheme members receive at least a basic level of information about the scheme, an approved trustee is required to prepare a fund fact sheet that contains the following information for each constituent fund:

- (i) The net asset value of each fund;
- (ii) The launch date of each fund;
- (iii) A brief description of the investment objectives of the fund and any change in the statement of investment policy and objectives since the last fund fact sheet;
- (iv) The allocations of assets of each fund;
- (v) The largest ten asset holdings as a percentage of fund net asset value;
- (vi) The periodic rate of return for the fund;
- (vii) A comparison of the fund's performance against the benchmark, if any benchmark is used;
- (viii) The latest Fund Expense Ratio;
- (ix) A general indication about the level of risk of the fund;
- (x) A description of the fund type; and
- (xi) A discussion of fund performance, market review and market outlook.

At least two fund fact sheets must be issued for each financial year of a scheme. One fund fact sheet should be provided to members with the annual benefit statement and the other should be provided to members within two months after the reporting date (i.e. a date which is six months after the end of the scheme's financial year).

(d) **Fund Expense Ratio ("FER")**

The FER provides a measure of the total level of expenses of a fund. If the fund invests in an APIF or a number of APIFs, the FER will need to include fees and charges incurred at the APIF level.

The FER is calculated for all constituent funds and APIFs on an annual basis and is disclosed in the fund fact sheet, the OCI for constituent funds and the annual return of a scheme and an APIF.

(e) **Annual Benefit Statement ("ABS")**

The ABS serves to confirm scheme membership and membership details, and the status and number of accounts held by the member. It helps check inflows and outflows including contributions, transfer and transactions, and to identify account balances and accruals, the extent to which they are vested, and the gains and losses associated with the accounts over the relevant financial period. The ABS is a historical record of the member's account at a point in time.

The new content requirements of the ABS are set out in Part F of the Disclosure Code.

ABSs issued in respect of financial periods ending after 1 September 2009 will need to comply with the new content requirements.

## **5.10 ON-GOING MONITORING**

In order to ensure compliance with all MPF requirements, the MPFA monitors MPF products on an on-going basis through regular reviews of scheme reports from trustees and on-site inspections to identify areas for improvement or rectification. Changes to the constitutive documents of MPF schemes/APIFs or changes to the offering documents of MPF schemes have to be submitted to the MPFA and SFC for approval before amendments can be implemented.

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## *Representative Examination Questions*

### Type “A” Questions

- 1 At least one of the constituent funds of an MPF scheme must:
- (a) be an MPF conservative fund; .....
  - (b) consist totally of equity holdings; .....
  - (c) consist only of investment in bonds; .....
  - (d) be an approved pooled investment fund. ....

[Answer is in **5.3.2**]

- 2 Which of the following is **not** a type of approved pooled investment funds?
- (a) authorized unit trust; .....
  - (b) authorized mutual fund; .....
  - (c) investment fund governed by foreign law; .....
  - (d) insurance policy. ....

[Answer is in **5.4.2**]

### Type “B” Questions

- 3 Which **three** of the following statements regarding constituent funds are **true**?
- (i) All constituent funds must be approved by MPFA
  - (ii) Investment in a constituent fund may be restricted to certain groups of MPF scheme members only
  - (iii) Each constituent fund has at least one dealing day a month
  - (iv) Each constituent fund must have its own stated investment policy
- (a) (i), (ii) and (iii); .....
  - (b) (i), (ii) and (iv); .....
  - (c) (i), (iii) and (iv); .....
  - (d) (ii), (iii) and (iv). ....

[Answer is in **5.1** and **5.3.1**]

4 In which of the following circumstances will it **not** be permitted for the administrators to charge any administrative expenses to an MPF conservative fund in a particular month?

- (i) Fund's investment earnings HK\$3,000, return calculated based on prescribed savings rate HK\$2,000
- (ii) Fund's investment earnings HK\$3,000, return calculated based on prescribed savings rate HK\$3,000
- (iii) Fund's investment earnings HK\$3,000, return calculated based on prescribed savings rate HK\$4,000
- (iv) Fund's investment earnings HK\$6,000, return calculated based on prescribed savings rate HK\$5,000

- (a) (i) and (ii); .....
- (b) (i) and (iii); .....
- (c) (ii) and (iii); .....
- (d) (iii) and (iv). .....

[Answer is in **5.3.2**]

5. Which of the following information must be included in the Fee Table?

- (i) all fees and charges
- (ii) the amount of each fee currently charged
- (iii) what a particular fee is for
- (iv) from whom each fee is payable

- (a) (i) and (iii);
- (b) (i), (ii) and (iii);
- (c) (ii), (iii) and (iv);
- (d) (i), (ii), (iii) and (iv).

[Answer is in **5.9**]

*[If required, answers may be found at the end of the Study Notes.]*

## **6 INTERFACE ARRANGEMENTS BETWEEN ORSO SCHEMES AND THE MPF SYSTEM**

ORSO schemes refer to retirement schemes regulated by the Occupational Retirement Schemes Ordinance (“ORSO”). There are many interactions between the ORSO schemes and the MPF system.

Unlike MPF schemes which are established under a compulsory system, an ORSO scheme is a voluntary retirement scheme set up by an employer to provide benefits to employees in the form of pensions, allowances, gratuities or other payments, payable on termination of service, death or retirement. Other than MPF schemes, all retirement schemes operated in and from Hong Kong, with certain exceptions, need to be either registered or exempted under ORSO. Considerable flexibility is allowed in drawing up the rules and provisions of such schemes.

### **6.1 TYPES OF ORSO SCHEMES**

There are various ways of classifying ORSO schemes, for example: by type of benefits provided, by being ORSO registered or exempted or, by having MPF exemption.

#### **6.1.1 Types of Benefits Provided**

According to the types of benefits provided, ORSO schemes can be classified into two categories:

##### **(a) Defined Contribution Schemes (“DCS”)**

Both the employer’s and employees’ contribution rates are defined, and the amount of benefits accrued is based on the accumulated contributions and investment income.

##### **(b) Defined Benefit Schemes (“DBS”)**

The employer’s contribution rates are not defined but are recommended by an actuary from time to time after performing actuarial valuations. The amount of benefits a member is entitled to is generally based on a formula with reference to his age, years of service, final average salary etc.

Hybrid schemes having both DCS and DBS features are also classified as DBS.

#### **6.1.2 ORSO Registered or ORSO Exempted**

An ORSO scheme can also be classified as either of the following:

(a) **ORSO Registered Schemes**

As mentioned above, all retirement schemes operated in and from Hong Kong need to be registered under ORSO, except those which fall within one of the following categories:

- (i) Schemes contained in or established by any ordinance other than the ORSO (for example, an MPF scheme established under the MPFSO);
- (ii) Schemes set up by the government of a country or territory outside Hong Kong or its agency not operating for the purpose of gain;
- (iii) Schemes that satisfy the criteria for ORSO exemption.

As (i) and (ii) do not fall within the ambit of ORSO, application for ORSO registration or ORSO exemption is not required. For (iii), application for ORSO exemption instead of ORSO registration is required.

(b) **ORSO Exempted Schemes**

This refers to schemes mentioned in (a)(iii) above. These schemes are exempted from ORSO registration, either because they are offshore schemes satisfying certain requirements, or they have members being Hong Kong permanent identity card holders less than the prescribed limit.

### **6.1.3 MPF Exempted or Not**

From the perspective of MPF intermediaries, this should be the most pertinent way of classification of ORSO schemes. This classification came about due to the introduction of the MPF system and ORSO schemes were faced with various options for interfacing. One of these options was to apply for MPF exemption, so that the employer and employees covered by the scheme were exempted from MPF requirements.

(a) **MPF Exempted ORSO Schemes**

These schemes satisfy the requirements for applying for MPF exemption certificates. They can be ORSO registered schemes or exempted schemes, and can be either closed or open to new members.

(b) **Non-MPF Exempted ORSO Schemes**

Schemes that were not granted MPF exemption certificates, either because they did not qualify or did not apply, fall into this category.

The criteria for granting an MPF exemption certificate is discussed in **6.3**.

## 6.2 COMPARISON OF FEATURES

It is useful to compare some MPF features with the corresponding features under ORSO schemes.

MPF	ORSO <sup>1</sup>		
	<i>Non-MPF exempted ORSO schemes</i>	<i>MPF exempted ORSO exempted schemes</i>	<i>MPF exempted ORSO registered schemes</i>
(a) Is always a <b>DCS</b>	(a) May be a <b>DCS</b> or a <b>DBS</b>		
(b) Mandatory	(b) Voluntary		
(c) Governed by Hong Kong law	(c) May be governed by a law outside Hong Kong		
(d) Vesting 100% immediately	(d) If and as scheme provides		
(e) Trustee must be approved	(e) Approval for trustee is not needed	(e) Approval for trustee is needed	
(f) Other features: <ul style="list-style-type: none"> <li>• All employees being employed for 60 days or more must join unless exempted</li> <li>• Minimum contribution rate</li> <li>• Benefits to be preserved</li> <li>• Benefits portable</li> <li>• Relevant income defined</li> <li>• Minimum relevant income</li> <li>• Maximum relevant income</li> <li>• Eligibility requirements for: <ul style="list-style-type: none"> <li>- Trustees / Investment Managers / Custodians</li> </ul> </li> </ul>	(f) No equivalent provisions required	(f) Other features: <ul style="list-style-type: none"> <li>• “Minimum MPF benefits” to be preserved for new members (see <b>6.5.2</b>)</li> <li>• “Minimum MPF benefits” are portable for new members (see <b>6.5.2</b>)</li> <li>• Minimum standards for: <ul style="list-style-type: none"> <li>- Trustees / Investment Managers</li> </ul> </li> </ul>	

<sup>1</sup> For illustration purposes, we have classified ORSO schemes into 3 categories as follows:

- Non-MPF exempted ORSO schemes (i.e. ORSO registered and exempted schemes that have not obtained MPF exemption)
- MPF exempted ORSO exempted schemes (i.e. ORSO exempted schemes that have obtained MPF exemption)
- MPF exempted ORSO registered schemes (i.e. ORSO registered schemes that have obtained MPF exemption)

The above three types of schemes share common features under (a) to (d). Under features (e) to (f), there are disparities between “Non-MPF exempted ORSO schemes and MPF exempted ORSO exempted schemes (which still share common features)” and “MPF exempted ORSO registered schemes”.

### **6.3 EXEMPTION CRITERIA**

To qualify for MPF exemption, the scheme must be an “ORSO exempted scheme” or a “relevant ORSO registered scheme” as defined in the Mandatory Provident Fund Schemes (Exemption) Regulation (the “Exemption Regulation”). Of course, other exemption criteria also need to be satisfied.

The deadline for submission of an application for MPF exemption in respect of an ORSO exempted scheme or a relevant ORSO registered scheme was 3 May 2000. Hence, no MPF exemption will be granted in respect of those MPF exemption applications made after 3 May 2000, except for successor schemes. For successor schemes, MPF exemption may be granted even if the MPF exemption application is made after 3 May 2000, provided that the scheme is the successor scheme of a relevant ORSO registered scheme and is established as a result of a genuine business transaction such as business restructuring etc. For successor schemes that successively obtain MPF exemption, the existing members<sup>2</sup> of the MPF exempted ORSO schemes transferred to the successor scheme may retain their “existing member” status (i.e. no need to be bound by the “minimum MPF benefits” provisions) under the successor scheme. A detailed discussion of this topic is beyond the scope of these Study Notes.

An MPF exempted ORSO scheme is still subject to the ORSO requirements; in addition there are other requirements under the Exemption Regulation. Under the Exemption Regulation, the requirements imposed upon an MPF exempted ORSO registered scheme are more onerous than those imposed upon an MPF exempted ORSO exempted scheme (see **6.6**).

### **6.4 DIFFERENT FORMS OF ORSO SCHEMES FOLLOWING THE INTRODUCTION OF THE MPF SYSTEM**

Due to the introduction of the MPF system, an employer who already operated an ORSO scheme had to decide whether and to what extent he should continue that scheme. Whatever the decision was, the employer of the ORSO scheme had to follow the scheme terms whenever there was/is a change of the scheme or scheme particulars. Some of the factors that influenced his decision included:

- (a) whether the current employment contracts stipulated certain retirement protection arrangements; if so, he would have to continue the existing ORSO scheme for existing employees who wished to do so;
- (b) the relevant administration and funding costs involved in operating ORSO and MPF schemes;
- (c) the feasibility of a total transfer of the existing scheme assets into an MPF scheme.

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<sup>2</sup> “Existing member” is defined as “a relevant employee who became a member of the scheme before or on 1 December 2000”.

A “relevant employee” means an employee of 18 years of age or over and below 65.

If the employer decided to continue his ORSO scheme, the scheme would now be in one of the following forms:

(a) **MPF Exempted ORSO Scheme with Open Membership**

The employer offers the MPF exempted ORSO scheme to both existing members and new eligible employees<sup>3</sup>. When doing so, the employer is obliged to offer an option to these employees to choose between the ORSO scheme and an MPF scheme.

(b) **MPF Exempted ORSO Scheme with Close Membership**

The scheme is an MPF exempted ORSO scheme, but new employees are not permitted to join this ORSO scheme and need to be covered under an MPF scheme. Existing members could continue to accrue benefits under the ORSO scheme. Again, existing members had to be offered the option to join an MPF scheme.

(c) **“Top-up” ORSO Scheme**

This option implies that **all** employees would be covered under an MPF scheme, but the existing ORSO scheme would be modified to provide extra benefits for existing (and perhaps also new eligible) employees. Effectively this means that contributions to the ORSO scheme would become **supplementary contributions**, over and above the minimum MPF contribution requirements.

(d) **“Frozen” ORSO Scheme**

There will be no future contributions made to the ORSO scheme with respect to future service. The benefits of existing members under the ORSO scheme will continue to accrue investment returns until the members are entitled to receive benefits in accordance with the governing rules of the scheme. The employer will have to enrol all existing members and new employees into an MPF scheme and make mandatory contributions.

On the other hand, the employer may have decided to terminate his ORSO scheme when the MPF System began in 2000, or may have continued to operate his ORSO scheme under one of the above mentioned forms for a while but ultimately decided to terminate the scheme.

Upon terminating an ORSO scheme, the employer can, subject to the terms of the scheme:

- (a) close the scheme completely and pay out all liabilities thereunder (with the exception of “minimum MPF benefits” that need to be preserved for new members (see **6.5.2**)); or
- (b) close the scheme completely and transfer all scheme assets into an MPF scheme / another ORSO scheme, which thereby replaces the ORSO scheme totally.

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<sup>3</sup> “New eligible employee” is defined as “a relevant employee who is, or will become, eligible to be a member of the scheme”.

Generally, if the employer decides to pay out the liabilities, the portion of accrued benefits attributable to the employer's contributions are taxable to the employees since the benefits have not been received in the prescribed circumstances (i.e. retirement, death, incapacity and termination of service) which enable the benefits to be totally or partially exempt from Hong Kong salaries tax.

Moreover, the employer should be mindful of the charges or losses that may be incurred upon scheme termination, particularly with respect to termination cost and guarantee provisions.

In the event of the winding up of an ORSO scheme, the employer must notify the Registrar of Occupational Retirement Schemes and each scheme member of that fact within 14 days of the commencement of the winding up.

## **6.5 IMPLICATIONS FOR EXISTING MEMBERS AND NEW ELIGIBLE EMPLOYEES**

Whatever arrangement has been adopted, there are implications for the employees concerned. Where an application has been made for MPF exemption of an ORSO scheme, the following considerations arise:

### **6.5.1 Existing Members Opting to Remain in An MPF Exempted ORSO Registered Scheme**

If the ORSO registered scheme is granted an MPF exemption, an existing member knows that his **existing and future** benefits in the scheme will not be subject to the preservation, portability and withdrawal requirements in respect of his "minimum MPF benefits" (see **6.5.3**).

The non-applicability of these requirements could be to the member's advantage if he leaves the employer before retirement age, since he would then be entitled to receive the relevant termination of service benefit in cash at that time.

Moreover, upon dismissal for cause from employment, the trustee cannot forfeit an existing member's "minimum MPF benefits".

### **6.5.2 Existing Members Opting to Join An MPF Scheme**

Existing members who opt to join an MPF scheme are required to make the statutory mandatory contributions to the MPF scheme with their employer. Under the Exemption Regulation, all accrued benefits under the ORSO registered scheme should remain in that scheme until the employee becomes entitled to receive them. However, the member's rights may be treated otherwise if the member's consent has been obtained and it is allowed under the governing rules of the ORSO scheme.

### **6.5.3 New Eligible Employees Opting to Join An MPF Exempted ORSO Registered Scheme**

Unlike existing members, a new eligible employee who opts to join such a scheme and becomes a new member would be subject to the “preservation, portability and withdrawal” requirements in relation to his “minimum MPF benefits”. The essence of these requirements is that the “minimum MPF benefits” cannot be paid out until retirement or other eligible time. Moreover, upon change of employment and subject to statutory exceptions, the “minimum MPF benefits” must be transferred to an MPF scheme.

“Minimum MPF benefits” is defined as the lesser of:

- (a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme;
- (b)  $1.2 \times$  final average monthly relevant income (capped by \$20,000)  $\times$  years of post-MPF service<sup>4</sup>.

Upon dismissal for cause from employment, however, the trustee cannot forfeit the new member’s “minimum MPF benefits”.

## **6.6 ON-GOING REQUIREMENTS FOR MPF EXEMPTED ORSO SCHEMES**

In accordance with the requirements of the Exemption Regulation, the relevant employer of an ORSO exempted scheme to which an MPF exemption certificate relates is required to:

- (a) **Exhibition and Provision of Exemption Certificate**
  - (i) display the exemption certificate at all times in a conspicuous position at:
    - the relevant employer’s principal office in Hong Kong;
    - if there is no such office, each premise where a member of the ORSO scheme is employed by him.
  - (ii) provide each member with a copy of the MPF exemption certificate.

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<sup>4</sup> “Years of post-MPF service” is defined as the member’s continuous years of service (including part thereof) from the date he joined the scheme or the date of MPF implementation, whichever is the later, to –

- (i) the date of termination of his employment;
- (ii) in the case of the winding up of the scheme, the date on which the member ceases to be a member of the scheme;
- (iii) in the case of the withdrawal (including deemed withdrawal) under the Exemption Regulation of the exemption certificate which applies to the scheme, the date of the coming into effect of the withdrawal.

(b) **Option Offering**

- (i) provide an option to existing members and new eligible employees to choose between the MPF exempted ORSO scheme and an MPF scheme<sup>5</sup>.

For an MPF exempted ORSO registered scheme, in addition to the above requirement, the relevant employer is also required to comply with the following:

(a) **Upon Reduction of Employee's Future Benefits**

- (i) to provide an option to affected members again to choose between the ORSO scheme and an MPF scheme whenever the relevant employer decides to reduce any member's future benefits or rights under the ORSO registered scheme.

(b) **Appointment and Retirement of Trustees**

- (i) to ensure that the person who has the power to retire or appoint a trustee (be it a corporate trustee or an individual trustee) applies in writing for the MPFA's **prior** approval before retiring or appointing the trustee of the scheme ("prior approval requirements"). In the case of a corporate trustee changing its directors, the former must obtain the MPFA's **prior** approval before retiring and appointing its directors if it is **not**:
- a registered trust company in Hong Kong ("RTC"); or
  - an overseas trust company which is comparable to a RTC and has a significant presence and control in Hong Kong.

The MPFA has exercised its power to exempt the person who has the power to retire or appoint a trustee which is a RTC from these prior approval requirements. Instead, the employer of the scheme must notify the MPFA in writing within one month after the date of appointment or retirement of the RTC. However, if the appointee/retiree is not a RTC, the prior approval requirements should still apply.

(c) **Appointment of Investment Managers**

- (i) when appointing an investment manager for a scheme on or after 1 December 2000, the Exemption Regulation requires that it must be an investment management company that:
- is a corporation licensed to carry on, or an authorized institution registered for carrying on, a business of Type 9 (asset management) regulated activity under Part V of the Securities and Futures Ordinance; or
  - is a company authorized by an overseas authority recognized by the MPFA to carry on a business in asset management.

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<sup>5</sup> If the employees are required by an enactment of a place outside Hong Kong to remain as / become a member of the ORSO scheme and make contributions to the scheme, the employer is not required to provide such an option to these employees.

You are reminded that the above list of on-going requirements imposed under the Exemption Regulation on an MPF exempted ORSO scheme includes the major requirements only and is by no means exhaustive.

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## *Representative Examination Questions*

### Type “A” Questions

- 1 An MPF scheme in Hong Kong is:
- (a) always a defined benefit scheme; .....
  - (b) never a defined contribution scheme; .....
  - (c) always a defined contribution scheme; .....
  - (d) sometimes a defined contribution scheme. ....
- [Answer is in **6.2**]

### Type “B” Questions

- 2 Which of the following statements is/are **true**, if it is decided to wind up an existing ORSO scheme and replace it with an MPF scheme?
- (i) the ORSO scheme may be closed and all liabilities paid out
  - (ii) all assets may be transferred to the MPF scheme
  - (iii) the ORSO scheme cannot be closed, as liabilities may arise later
  - (iv) the ORSO scheme may be closed, but members will then lose all their benefits
- (a) (i) only; .....
  - (b) (i) and (ii) only; .....
  - (c) (ii) and (iii) only; .....
  - (d) (iii) and (iv) only. ....
- [Answer is in **6.4**]

*[If required, answers may be found at the end of the Study Notes.]*

## 7 MPF INTERMEDIARIES

This Chapter explains to readers how MPF intermediaries are regulated and what minimum standards of conduct are expected of them. It is therefore important for those who intend to become MPF intermediaries to pay special attention to the notes which follow, especially the part which relates to the Code of Conduct for MPF Intermediaries.

### 7.1 MPF INTERMEDIARY

- (a) “MPF intermediary” means a person who is engaged in:
  - (i) selling MPF schemes; or
  - (ii) advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes.
- (b) The term “MPF intermediary” does not include a professional such as a lawyer, a professional accountant or an actuary whose act of giving advice is wholly incidental to the practice of his profession.
- (c) There are two types of MPF intermediary:
  - (i) “**Corporate intermediary**” refers to a sole proprietorship/partnership/limited company (generally “corporation”) that is responsible for the supervision of the selling/advising activities of MPF schemes and includes a promoter that appoints or employs individual intermediaries to sell or advise on MPF schemes promoted by the promoter;
  - (ii) “**Individual intermediary**” refers to an officer/agent/employee who engages in selling MPF schemes or advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes.
- (d) Unless otherwise specified, the term “MPF intermediary” refers to an individual or a corporation.

### 7.2 REGULATORY FRAMEWORK

#### (a) Objectives

The framework for regulating MPF intermediaries aims at:

- (i) minimizing the risk of mis-selling;
- (ii) maximizing protection for scheme members.

(b) **Regulatory Approach**

As MPF intermediaries primarily come from the banking, securities or insurance industries, they are already subject to the supervision of at least one regulatory regime. Therefore, in regulating MPF intermediaries, the MPFA works with the other three financial regulators to supervise those MPF intermediaries falling under their respective regulatory regimes.

The three financial regulators are:

- (i) the Monetary Authority (“MA”);
- (ii) the Securities and Futures Commission (“SFC”);
- (iii) the Insurance Authority (“IA”) (including the three self-regulatory organizations of the insurance industry (“SROs”), namely, the Insurance Agents Registration Board set up by The Hong Kong Federation of Insurers, The Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.)

The MPFA performs the function of registering and monitoring MPF intermediaries whereas the other three financial regulators conduct inspections, carry out enforcement action and discipline those MPF intermediaries that fall under their individual regulatory regimes.

In other words, MPF intermediaries are regulated by **four regulators** (MPFA, MA, SFC and IA) with the MPFA acting as the **lead regulator** and **coordinator** under the framework for regulating MPF intermediaries.

(c) **MPF Intermediaries Regulation Coordinating Committee**

A committee, the MPF Intermediaries Regulation Coordinating Committee, consisting of representatives from the four regulators and the Financial Services and the Treasury Bureau, was established in 1999 to coordinate the regulation of MPF intermediaries.

The committee’s main functions include:

- (i) defining boundaries and delineating the responsibilities of the four regulators;
- (ii) coordinating inspection and enforcement action;
- (iii) keeping the regulatory framework under review.

(d) **Complaint Handling**

The salient points in this are:

- (i) The public is encouraged to refer all complaints to the MPFA.
- (ii) The MPFA keeps a central record of all complaints received.
- (iii) For complaints against MPF intermediaries, the MPFA first conduct an initial review and then refers prima facie cases to the relevant regulator for follow up action.

- (iv) The three financial regulators are responsible for carrying out enforcement and disciplinary action on the MPF intermediaries supervised by them.
- (v) In respect of MPF intermediaries who are employees of authorized insurers or authorized institutions, the IA and the MA rely on the authorized insurers and the authorized institutions respectively to ensure the suitability of MPF intermediaries sponsored by them.
- (vi) The authorized insurers and authorized institutions in (v) above are also responsible for carrying out enforcement and disciplinary action on MPF intermediaries that are acting on their behalf.

### **7.3 REGISTRATION REQUIREMENTS**

It should be noted that only a registered corporate intermediary can carry on MPF selling/advising business. Similarly, only a registered individual intermediary can engage in MPF selling/advising activities.

#### **(a) Basic Requirements**

To obtain registration, an MPF intermediary must:

- (i) be supervised by at least one of the regulatory regimes (SFC, IA or MA) and possess one of the following:
  - SFC regime - licensed corporation or licensed representative licensed to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities;
  - IA regime - authorized insurer eligible to carry on long term business or its employee, authorized insurance broker or appointed insurance agent eligible to engage in long term business, or its registered Chief Executive/registered Responsible Officer/Technical Representative;
  - MA regime - authorized institution or its employee.
- (ii) (in the case of an individual applicant) pass an MPF intermediaries examination recognized by the MPFA and be sponsored by a corporation registered as an MPF intermediary;
- (iii) (in the case of a corporate applicant) also lodge an application in respect of an individual for approval as the responsible officer;
- (iv) satisfy the MPFA that he is a fit and proper person to be registered (see **7.3(c)** below).

**Note:** The MPFA recognizes both the Mandatory Provident Fund Schemes Examination conducted by the Vocational Training Council and the MPF Intermediaries Examination conducted by the Hong Kong Securities Institute.

(b) **Other Requirements**

For those MPF intermediaries who intend to give advice on securities or insurance policies, they must comply with the appropriate licensing/registration/authorization requirements under the SFC, the MA and the IA regimes.

(c) **Fit and Proper Criteria**

MPF intermediary applicants must satisfy the MPFA that they are fit and proper to be registered as MPF intermediaries. Generally speaking, the MPFA, in registering MPF intermediaries, is not likely to be satisfied that an applicant is a fit and proper person, if the person (whether in Hong Kong or elsewhere):

- (i) has been found by a court to have acted fraudulently or dishonestly, has been convicted of a criminal offence, or is the subject of unresolved criminal charges which are of direct relevance to their fitness and properness;
- (ii) is an undischarged bankrupt, is currently subject to bankruptcy proceedings, or is a bankrupt who has recently been discharged;
- (iii) has been denied membership/registration of any professional/regulatory body due to reasons other than insufficient qualification/experience, or has been disqualified/censured/disciplined by any professional/regulatory body due to serious misconduct;
- (iv) has failed to comply with the Continuing Professional Development requirement during his period of registration as an MPF intermediary.

All registered MPF intermediaries must also meet these fit and proper criteria to remain registered with the MPFA.

(d) **Proof of Qualification**

Upon registration with the MPFA, corporate and individual intermediaries are issued with Mandatory Provident Fund intermediary certificates (“**MPF certificates**”).

The MPF certificate shows the name of the intermediary, the corporation(s) which he acts on behalf of; his registration number; registration date, registration expiry date; and whether he is:

- permitted to sell MPF schemes without rendering specific investment advice;
- permitted to advise on securities;
- permitted to advise on insurance policies; or
- permitted to advise on securities and insurance policies.

(e) **MPF Intermediaries Public Register**

The MPFA keeps a register of all registered MPF intermediaries. The public can verify an MPF intermediary’s registration status by:

- (i) calling the MPFA hotline on 2918 0102;
- (ii) checking the MPFA website at [www.mpfa.org.hk](http://www.mpfa.org.hk); or
- (iii) visiting the following MPFA offices:
  - Level 16, International Commerce Centre, 1 Austin Road West, Kowloon, Hong Kong;
  - Level 36, Tower 1, Metroplaza, 223 Hing Fong Road, Kwai Fong, New Territories, Hong Kong;
  - Suites 607-608, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong; or
  - 25/F, Tower 1, Millennium City 1, 388 Kwun Tong Road, Kwun Tong, Kowloon, Hong Kong.

## **7.4 CODES OF CONDUCT FOR MPF INTERMEDIARIES**

A code of conduct is a public statement which declares the principles and business practices to be adopted by subscribing members. Whilst such codes cannot override an ordinance, and may in fact declare that they do not have the force of law, breaches may have serious consequences for the member concerned. Each intermediary must be fully aware of the codes issued by the respective regimes under which he is supervised.

### **7.4.1 Code of Conduct for MPF Intermediaries (“Code of Conduct”)**

This Code of Conduct has the greatest importance to the readers of these Notes. The purpose of the Code of Conduct is to enhance the standards of service provided by MPF intermediaries and to assure the public of the quality of MPF intermediaries.

The full text of the Code of Conduct is reproduced at the end of this Chapter. Readers who intend to become MPF intermediaries are advised to study the Code of Conduct carefully. Thereafter, remember to practice it!

### **7.4.2 Other Codes of Conduct**

As all MPF intermediaries are supervised by at least one of the three financial regulatory regimes (MA, SFC, IA), they are expected to observe not just the Code of Conduct, but the codes issued under these regimes that are applicable to them. The following will give readers an idea of the codes and guidelines issued under these regimes:

- (a) MA regime:

- “Code of Banking Practice” endorsed by the Hong Kong Monetary Authority (“HKMA”)
  - “Supervisory Policy Manual (Code of Conduct and Supervision of Mandatory Provident Fund Intermediaries Modules)” issued by the HKMA
- (b) SFC regime:
- “Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission” issued by the SFC
  - “Fit and Proper Guidelines” issued by the SFC
  - “Guidelines on Competence” issued by the SFC
  - “Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission” issued by the SFC
  - “Licensing Information Booklet issued by the SFC”
- (c) IA regime:
- “Minimum Requirements for Insurance Brokers” specified by the IA
  - “The Code of Practice for the Administration of Insurance Agents” issued by the Hong Kong Federation of Insurers
  - “Membership Regulations” and “Code of Conduct” issued by The Hong Kong Confederation of Insurance Brokers
  - “Membership Regulations” issued by the Professional Insurance Brokers Association

## 7.5 ROLE OF MPF INTERMEDIARIES

Apart from any legal requirements, the ethical and professional standards require an MPF intermediary to have a full appreciation of his very significant responsibilities. Some of the important obligations of an MPF intermediary towards his clients can be depicted by walking through the marketing process conducted by an MPF intermediary.

### (a) **Approaching the Client**

In the initial contact with a potential client, an MPF intermediary should:

- (i) identify himself with his business card bearing his MPF registration number;
- (ii) provide information about the corporation(s) he represents;
- (iii) explain the types of services/advice he can offer.

(b) **Understanding the Client**

Before selling any MPF schemes or enrolling any clients into an MPF scheme, the MPF intermediary should acquire:

- (i) a basic understanding of the client, especially in relation to his employment status i.e. whether the client is an employer, an employee, or a self-employed person;
- (ii) an understanding of the client's financial situation, risk preference and investment objectives before advising on MPF investment funds.

(c) **Selling/Advising on MPF Schemes**

In the course of selling/advising on MPF schemes/funds, the MPF intermediary should:

- (i) explain the key features of the MPF schemes/constituent funds he is marketing to the client;
- (ii) provide the client with the relevant offering documents and marketing materials containing accurate and up-to-date information;
- (iii) explain in detail the features, conditions and limitations of any guaranteed funds offered in the MPF scheme;
- (iv) ensure that he would not advise the client on insurance policies unless he possesses the relevant registration or authorization under the IA regime;
- (v) ensure that he would not advise the client on securities unless he is licensed by the SFC to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities or his name has been entered in the Register maintained by the HKMA to carry on those regulated activities;
- (vi) ensure that any references made to the past performance of SFC authorized funds are not false, biased, misleading or deceptive;
- (vii) avoid any potential conflict of interest and ensure clients are treated fairly;
- (viii) ensure that all payments (in the form of cheques) are payable to the trustee of the MPF scheme only; and
- (ix) not accept cash payment.

(d) **After Sales Service**

The MPF intermediary should:

- (i) respond to enquiries from his client in respect of the client's investment/account;
- (ii) cooperate with the MPFA and relevant regulators to establish the facts relating to any complaints concerning himself.

## 7.6 RENDERING INVESTMENT ADVICE

Before providing investment advice to employees, self-employed persons or preserved account holders with respect to their choice of constituent funds, an MPF intermediary should:

- (a) understand his client's investment goal , for example:
  - (i) to preserve capital; or
  - (ii) to earn relatively high returns.
  
- (b) ascertain his client's risk tolerance level (the extent to which fluctuations in the value of investments are acceptable):
  - (i) conservative – the client may choose to invest in bond funds with a high credit rating, whose values are unlikely to fluctuate significantly from year to year but the returns may be relatively low; or
  - (ii) aggressive - the client may choose to invest in equity funds, which may deliver relatively high returns in the long run at the risk of higher fluctuations in net asset values; or
  - (iii) medium - the client may choose to invest in a portfolio of bonds and equities to produce a more stable return.
  
- (c) identify his client's investment horizon:
  - (i) if retirement is remote and there is a potentially growing stream of income, the client may consider investing in some higher-risk instruments that can potentially generate higher returns;
  - (ii) if retirement is near, the client may consider opting for some relatively stable and conservative investments;
  - (iii) if retirement is some years away, the client may consider investing in a balanced investment portfolio consisting of bonds and equities.
  
- (d) ensure his client understands the key features of the various funds so as to select a fund which suits his investment objective:
  - (i) the investment objective and strategy of the fund;
  - (ii) the mix and allocation of its underlying investments;
  - (iii) the fees and charges payable by scheme members.
  
- (e) help his client select a fund(s) which suits his personal needs and circumstances:

For example,

- (i) The client, in his thirties, aims at financial independence when he retires. Given the client's investment horizon may be over thirty years away, he may consider investing in products with higher risks but also higher expected returns, such as equity funds.
  - (ii) The client is approaching 60 and plans to retire at 65. Given his investment horizon will not last for more than five years, he may aim at making a more conservative investment with relatively stable performance.
- (f) advise his client on the importance of conducting on-going investment reviews:
- (i) Apart from keeping track of the returns of the fund, the client should also keep in view the price fluctuations of the fund and periodically review whether the fund is still able to meet his investment objectives and risk tolerance level. If necessary, switch to another fund.
  - (ii) The client should also be aware of any changes in his income, age and financial circumstances. Again, review the fund choice to see if the fund previously selected still suits his needs.
- (g) advise the client about the importance of taking a long-term perspective in retirement planning and refrain from short-term speculation, as frequent switching is not only costly in terms of transaction fees and charges, but also prevents the client from realizing the long-term investment goal of the fund.

## **7.7 SANCTIONS AND PENALTIES**

Should MPF intermediaries fail in their duties or otherwise be in breach of expected requirements, a number of sanctions and/or penalties may arise. We may consider them under a number of headings, as follows:

(a) **Imposed by their Principals**

These will be within the terms of the agency or other contract between the principal and the intermediary, and will be as mutually agreed. Obviously, the range of sanctions and penalties will include internal disciplinary action such as forfeiting commission and/or reprimands etc.

(b) **Imposed by Statute (Ordinance)**

A complete summary of all statutory provisions in this area is not required, but some important specific areas should be noted, as follows:

(i) **Securities and Futures Ordinance**

Section 103 of the Securities and Futures Ordinance makes it an offence to issue to the public any advertisements on MPF schemes and approved pooled investment funds unless they are authorized by the SFC or exempt under the

Securities and Futures Ordinance. A breach of section 103 carries a maximum fine of HK\$500,000 and 3 years of imprisonment (plus a further fine for each day the offence continues).

Section 107 of the Securities and Futures Ordinance makes it an offence to induce another person to participate in MPF schemes or invest in pooled investment funds by making fraudulent or reckless misrepresentation. A breach of section 107 carries a maximum fine of HK\$1,000,000 and 7 years of imprisonment.

Section 114 of the Securities and Futures Ordinance makes it an offence of a person carrying on or holds himself out as carrying on a business of regulated activity without being properly licensed, registered or authorized by the SFC, unless exempt under the Securities and Futures Ordinance. A breach of this provision without reasonable excuse carries a maximum fine of HK\$5,000,000 and 7 years of imprisonment (plus a further fine for each day the offence continues).

Under Section 194 of the Securities and Futures Ordinance, if a regulated person (as defined in the aforementioned provision), is guilty of misconduct or the SFC is of the opinion that he is not a fit and proper person, the SFC is empowered to:

- revoke or suspend his licence in respect of all or any of the regulated activities;
- publicly or privately reprimand him;
- order him to pay a pecuniary penalty; or
- issue prohibition order against him.

(ii) Insurance Companies Ordinance

Section 77 of the Insurance Companies Ordinance makes it an offence for a person who holds himself out to be an insurance agent of an insurer who is not an appointed insurance agent of the insurer, and a person who holds himself out to be an insurance broker who is not an authorized insurance broker. A breach of section 77 carries a maximum fine of HK\$1,000,000 and 2 years of imprisonment.

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強制性公積金計劃管理局  
MANDATORY PROVIDENT FUND  
SCHEMES AUTHORITY

**CODE OF CONDUCT  
FOR  
MPF INTERMEDIARIES**

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## CHAPTER 1 - INTRODUCTION

### 1. Introduction

- 1.1 The Code of Conduct for MPF Intermediaries (“Code”) aims to provide guidance in respect of the minimum standards of conduct applicable to Mandatory Provident Fund (“MPF”) intermediaries (see interpretation of the term under Chapter 2) with a view to promoting good and ethical practices in MPF selling/advising business, which are conducive to the fostering of public confidence in the MPF system.
- 1.2 In addition, this Code prescribes the manner in which, in the absence of any particular consideration or circumstances, the Mandatory Provident Fund Schemes Authority (“MPFA”), the Monetary Authority (“MA”), the Insurance Authority (“IA”) (including the self-regulatory organizations of the insurance industry (“SROs”)), and the Securities and Futures Commission (“SFC”) intend to perform their functions of ensuring that all MPF intermediaries are fit and proper/suitable persons/entities in relation to the way in which they conduct the MPF selling and/or advising business.
- 1.3 This Code is complementary to the Code of Banking Practice endorsed by the Hong Kong Monetary Authority (“HKMA”), the Supervisory Policy Manual (Code of Conduct and Supervision of Mandatory Provident Fund Intermediaries Modules) issued by the HKMA; the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, the Fund Manager Code of Conduct, the Fit and Proper Guidelines, the Guidelines on Competence and the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission issued by the SFC; The Code of Practice for the Administration of Insurance Agents approved by the IA; the Minimum Requirements specified under section 69(2) and section 70(2) of the Insurance Companies Ordinance issued by the IA; the Membership Regulations and the Code of Conduct issued by The Hong Kong Confederation of Insurance Brokers; and the Membership Regulations issued by the Professional Insurance Brokers Association.
- 1.4 This Code does not replace any legislative provisions, codes or guidelines issued by the HKMA, the IA (including the SROs), the SFC and the MPFA.
- 1.5 Provisions in this Code may be added, modified, or deleted in the light of experience as and when considered necessary by the MPF Intermediaries Regulation Coordinating Committee.
- 1.6 This Code does not have the force of law and should not be interpreted in a way that would override the provisions of any law.

## 2. **Regulatory Framework**

- 2.1 This Code is developed based on the decentralized approach to the regulation of MPF intermediaries. The MPFA, rather than licensing MPF intermediaries directly, relies on the existing regulatory regimes, i.e. the MA, the IA (including the SROs) and the SFC, as far as practicable for the licensing and supervision of MPF intermediaries, with the MPFA acting as the lead regulator and coordinator.
- 2.2 The MPFA, in approving an application as an approved trustee, would impose the following conditions on the approval of the trustee (pursuant to section 20(8) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (“the Ordinance”):
- (a) In relation to the administration of any registered scheme by an approved trustee -
    - (i) the trustee shall take all reasonable steps in the circumstances to ensure that no person other than a registered MPF intermediary should induce or seek to induce another to become a participating employer or a member of the scheme;
    - (ii) the trustee must immediately report to the MPFA any breach of this condition of which it becomes aware;
    - (iii) in response to any breach of this condition, the MPFA may require the trustee to take such steps as the MPFA shall deem appropriate;
    - (iv) this condition does not apply to the publishing of any such inducement through advertisements or marketing materials to which the Securities and Futures Ordinance (Cap. 571) applies or to any inducement that is made outside the course of employment or without the prospect of reward for such inducement.
  - (b) The trustee must obtain undertakings from the promoters of those MPF schemes under its trusteeship. The promoter of an MPF scheme is to undertake to the trustee that it will, as far as reasonably practicable, ensure that MPF intermediaries selling/advising on the MPF scheme will comply with this Code.
- 2.3 In addition, the MPFA, in registering an MPF scheme (pursuant to section 21 or 21A of the Ordinance), would require the promoter of the scheme to provide an undertaking to the MPFA that it would only use registered MPF intermediaries to sell/advise on the scheme.
- 2.4 Under the Ordinance, the MPFA is responsible for supervising the activities of approved trustees. Being the central party to an MPF scheme, the approved trustee has a duty to use its best endeavours to supervise and exercise proper control over the persons appointed or engaged for the purposes of selling or

advising on the MPF scheme (pursuant to section 43 of the Mandatory Provident Fund Schemes (General) Regulation).

- 2.5 The promoter, in turn, is responsible for monitoring and supervising the activities of MPF intermediaries appointed or engaged by the promoter for the purposes of selling or advising on the MPF scheme. Promoters breaching the undertaking would be required to rectify any deficiencies in their systems and controls. For those who fail to do so, the relevant trustee should take steps to terminate the contractual relationship with the promoter.
- 2.6 No person shall engage in selling MPF schemes or advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes unless he is registered with the MPFA as an MPF intermediary.
- 2.7 To meet basic registration requirements, an applicant must be supervised by one or more of the three financial regulatory regimes – the MA, the IA and the SFC. An individual applicant must pass an MPF intermediaries examination recognized by the MPFA. In addition, the applicant must satisfy the MPFA that he is fit and proper to be registered as an MPF intermediary.
- 2.8 Generally speaking, the MPFA, in registering MPF intermediaries, is not likely to be satisfied that an applicant is a fit and proper person, if the person (whether in Hong Kong or elsewhere):
  - (a) has been found by a court to have acted fraudulently or dishonestly, has been convicted of a criminal offence, or is the subject of unresolved criminal charges which are of direct relevance to fitness and properness;
  - (b) is an undischarged bankrupt, is currently subject to bankruptcy proceedings, or is a bankrupt who has recently been discharged;
  - (c) has been denied membership/registration of any professional/regulatory body due to reasons other than insufficient qualification/experience, or disqualified/censured/disciplined by any professional/regulatory body due to serious misconduct.
  - (d) has failed to comply with the Continuing Professional Development (“CPD”) requirement during his period of registration as an MPF intermediary.
- 2.9 For MPF corporate intermediaries intending to give advice on securities, they would need to be licensed by the SFC or registered with the SFC to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities.
- 2.10 For MPF individual intermediaries intending to give advice on securities, they would need to be licensed representatives licensed by the SFC (if they are engaged by a licensed corporation) or their names have been entered in the Register maintained by the Hong Kong Monetary Authority (if they are engaged by an authorized institution) to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities.

- 2.11 For MPF intermediaries (corporate and individual) intending to give advice on insurance policies, they or their employers would need to be registered or authorized under the IA regime.
- 2.12 Upon registration with the MPFA, MPF intermediaries are issued with Mandatory Provident Fund intermediary certificates (“MPF certificates”). Prior to issuing MPF certificates, Mandatory Provident Fund intermediaries cards (“MPF cards”) would be issued.
- 2.13 MPF certificates will only be issued to MPF individual intermediaries who are sponsored by MPF corporate intermediaries.
- 2.14 There is clear identification on the MPF card/certificate indicating whether the MPF intermediary is:
- permitted to sell MPF schemes without rendering specific investment advice;
  - permitted to advise on securities;
  - permitted to advise on insurance policies; or
  - permitted to advise on securities and insurance policies.
- 2.15 A register bearing particulars of registered MPF intermediaries (“MPF intermediaries register”) is available for inspection at the office of the MPFA. Enquiries can also be made through an enquiry hotline.
- 2.16 An MPF corporate intermediary should lodge with the MPFA an annual return within the stipulated timeframe.
- 2.17 Upon registration with the MPFA, all MPF intermediaries, whether corporate or individual, are required to fulfill the requirement in respect of CPD as stipulated in the Guide to Continuing Professional Development for MPF Intermediaries in order to remain fit and proper to be registered as MPF intermediaries.
- 2.18 A committee (“MPF Intermediaries Regulation Coordinating Committee”), consisting of representatives from the HKMA, the IA, the SFC, the MPFA (together “four regulators”) and the Financial Services and the Treasury Bureau, is established to coordinate the regulation of MPF intermediaries. The main functions of the Committee are to define the boundaries and delineate the responsibilities of the four regulators; to help coordinate inspection and enforcement actions; to discuss risk issues; to advise on disciplinary actions; and, generally, to keep the regulatory framework under constant review.
- 2.19 To ensure compliance with the Code, the MA, the IA and the SFC will carry out routine inspection visits to MPF corporate intermediaries that are supervised by them.
- 2.20 The public will be encouraged to refer all complaints to the MPFA.

- 2.21 The IA (and the SROs), the MA and the SFC will be responsible for carrying out enforcement and disciplinary actions on MPF intermediaries supervised by them. In respect of MPF intermediaries who are employees of authorized insurers or authorized institutions, the IA and the MA will rely on the authorized insurers and the authorized institutions respectively to ensure suitability of their employees who are involved in the selling/advising activities of MPF schemes and to carry out enforcement and disciplinary actions on MPF intermediaries that are acting on their behalf.
- 2.22 All MPF intermediaries must be fit and proper to remain registered with the MPFA.

### **3. Application**

- 3.1 This Code applies to all MPF intermediaries including sole proprietorships/partnerships/limited companies (generally “corporations”) and persons acting on behalf of corporations including officers/agents/employees (generally “representatives”), regardless of which regulatory regimes they fall under.
- 3.2 This Code governs the conduct of MPF business, whether the activities are selling or advising, and whether the clients are employers, employees, self-employed persons or preserved account holders.
- 3.3 The four regulators and the SROs recognize that certain aspects of this Code may not be within the control of a representative acting on behalf of a corporation. In considering the conduct of an MPF individual intermediary in relation to this Code, the four regulators and the SROs will consider his level of responsibility within the corporation, any supervisory duties he may perform for the corporation, and the level of control or knowledge he may have concerning any failure by the corporation or persons under his supervision to follow this Code.
- 3.4 Whilst this Code attempts to delineate which provisions are applicable to a corporation and thus not applicable to a representative, it should be noted that these provisions, in many cases, may be applicable to its responsible officers as breaches of these provisions by the corporation reflect on the fitness and properness/suitability of the responsible officers who are responsible for the supervision of the selling/advising activities of the corporation.
- 3.5 The four regulators and the SROs will refer to matters set out in this Code in considering whether any corporation/representative is fit and proper/suitable to remain as an MPF intermediary.

### **4. Effect of Breach**

- 4.1 Breach of any of the requirements of this Code will, in the absence of any extenuating circumstances, reflect adversely on the fitness and properness/suitability of the representative and/or the corporation concerned to remain as an MPF intermediary.
- 4.2 When considering an MPF intermediary's failure to comply with this Code, the four regulators and the SROs will adopt a pragmatic approach taking into account all relevant circumstances and any remedial measures implemented by the senior management of the MPF corporate intermediary.

## CHAPTER 2 - INTERPRETATION

*Unless otherwise defined, words and expressions used in this Code are as defined in the Mandatory Provident Fund Schemes Ordinance (Cap. 485) or the Mandatory Provident Fund Schemes (General) Regulation.*

1. “Appointed insurance agent” means an insurance agent appointed by an authorized insurer as an agent and registered with the Insurance Agents Registration Board of The Hong Kong Federation of Insurers.
2. “Authorized institution” means a bank, a restricted licence bank, or a deposit taking company under section 2 of the Banking Ordinance (Cap. 155).
3. “Authorized insurer” means an insurer authorized under section 8 of the Insurance Companies Ordinance (Cap. 41) or a person allowed under section 6 of the Insurance Companies Ordinance to carry on insurance business in or from Hong Kong.
4. “Authorized insurance broker” means an insurance broker who is authorized by the Insurance Authority under section 69 of the Insurance Companies Ordinance (Cap. 41); or a member of a body of insurance brokers which is approved by the Insurance Authority under section 70 of the Insurance Companies Ordinance (i.e. The Hong Kong Confederation of Insurance Brokers or the Professional Insurance Brokers Association).
5. “Client” means either an employer/self-employed person/preserved account holder when subscribing for or being advised on an MPF scheme or an employee/self-employed person/preserved account holder when subscribing for or being advised on a constituent fund (including underlying approved pooled investment funds) of an MPF scheme.
6. “Complaint” means a complaint concerning the conduct of an MPF intermediary.
7. “Continuing Professional Development (“CPD”) requirement” means the compulsory requirement imposed upon all MPF intermediaries as set out in the Guide to Continuing Professional Development for MPF Intermediaries.
8. “Four regulators” means the Monetary Authority, the Insurance Authority, the Securities and Futures Commission and the Mandatory Provident Fund Schemes Authority.
9. “HKMA” means the Hong Kong Monetary Authority. The Chief Executive of the HKMA is the Monetary Authority.
10. “IA” means the Insurance Authority, an individual appointed pursuant to the Insurance Companies Ordinance (Cap. 41) to regulate and supervise the insurance industry.
11. “Licensed corporation” means a corporation which is granted a licence under section 116 of the Securities and Futures Ordinance (Cap. 571).

12. “Licensed representative” means an individual who is granted a licence under section 120 of the Securities and Futures Ordinance (Cap. 571).
13. “MA” means the Monetary Authority, an individual appointed by the Financial Secretary under Section 5A of the Exchange Fund Ordinance (Cap. 66) to assist the Financial Secretary in the performance of his functions under that Ordinance and to perform other functions as assigned.
14. “Mandatory Provident Fund intermediaries card” or “MPF card” means a card issued by the MPFA to an MPF individual intermediary stating that he is qualified to sell MPF schemes and/or to advise on constituent funds or underlying approved pooled investment funds of MPF schemes.
15. “Mandatory Provident Fund intermediary certificate” or “MPF certificate” means a certificate issued by the MPFA to an MPF corporate intermediary or an MPF individual intermediary stating that it/he is qualified to sell MPF schemes and/or advise on constituent funds or underlying approved pooled investment funds of MPF schemes.
16. “Misconduct” means any failure to comply with any provision of this Code.
17. “MPF corporate intermediary” or “corporate intermediary” means a sole proprietorship/partnership/limited company that is responsible for the supervision of the selling/advising activities of MPF schemes and includes a promoter that appoints or employs MPF individual intermediaries to sell or advise on MPF schemes promoted by the promoter.
18. “MPF individual intermediary” or “individual intermediary” means an officer/employee/agent who engages in the selling/advising activities of MPF schemes.
19. “MPF intermediaries examination” means an examination designed for MPF intermediaries and recognized by the MPFA, i.e. the MPF Intermediaries Examination conducted by the Hong Kong Securities Institute or the Mandatory Provident Fund Schemes Examination conducted by the Vocational Training Council.
20. “MPF intermediaries” means persons who are engaged in:
  - (a) selling MPF schemes; or
  - (b) advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes.
- 20.1 The following qualifications should be noted:
  - (a) The term “MPF intermediary” is used in the most expansive sense, including a representative (officer/employee/agent) or a corporation (sole proprietorship/partnership/limited company).
  - (b) The term “MPF intermediary” does not include certain professionals (such as lawyers, professional accountants or actuaries) whose act of giving advice is wholly incidental to the practice of their profession.

- 20.2 “MPF intermediaries” includes persons supervised by one or more of the following regimes:
- (a) SFC regime - as licensed corporations or licensed representatives licensed to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities;
  - (b) IA regime - as authorized insurers eligible to carry on long term business or their employees, authorized insurance brokers or appointed insurance agents eligible to engage in long term business, or their registered Chief Executives/registered Responsible Officers/Technical Representatives; and
  - (c) MA regime - as authorized institutions or their employees,  
who are involved in selling MPF schemes or advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes.
21. “MPF Intermediaries Regulation Coordinating Committee” or “the Committee” means the committee established to coordinate the regulation of MPF intermediaries among the four regulators.
22. “MPF intermediaries register” means the master list of registered MPF intermediaries which is maintained by the MPFA and open to inspection by the public.
23. “MPF schemes” means master trust schemes, employer-sponsored schemes or industry schemes, including constituent funds and the underlying approved pooled investment funds within these schemes.
24. “MPFA” means the Mandatory Provident Fund Schemes Authority.
25. “Officer” means a sole proprietor in the case of a sole proprietorship, a partner in the case of a partnership, a director or a senior executive in the case of a limited company.
26. “Ordinance” means the Mandatory Provident Fund Schemes Ordinance (Cap. 485).
27. “Promoter” means, in relation to an MPF scheme, the company which promotes the scheme and/or rewards MPF intermediaries for selling/advising on the scheme.
28. “Registered Chief Executive/Registered Responsible Officer” means a person who is registered as a Chief Executive of an insurance broker or as a Responsible Officer of an insurance agent with the Insurance Authority, The Hong Kong Confederation of Insurance Brokers, the Professional Insurance Brokers Association or the Insurance Agents Registration Board, as appropriate.
29. “Relevant regulator(s)” means one or more of the three regulators (the MA, the IA, or the SFC) that are involved in regulating MPF intermediaries.

30. “Responsible officer” means an officer who is designated by an MPF corporate intermediary to be responsible for the supervision of the selling/advising activities of MPF schemes.
31. “Self-regulatory organizations of the insurance industry” or “SROs” means the self-regulatory organizations approved by the Insurance Authority, which are the Insurance Agents Registration Board under The Hong Kong Federation of Insurers, The Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association.
32. “SFC” means the Securities and Futures Commission.
33. “Technical Representative” means a Technical Representative of an insurance agent/broker, who is registered with the Insurance Authority, the Insurance Agents Registration Board, The Hong Kong Confederation of Insurance Brokers or the Professional Insurance Brokers Association, as appropriate.
34. “Type 1 (dealing in securities) regulated activity” means the regulated activity as defined in Part 2 of Schedule 5 to the Securities and Futures Ordinance (Cap. 571).
35. “Type 4 (advising on securities) regulated activity” means the regulated activity as defined in Part 2 of Schedule 5 to the Securities and Futures Ordinance (Cap. 571).

## CHAPTER 3 - GENERAL PRINCIPLES

In considering whether an MPF intermediary is conducting his business properly and whether he is fit and proper/suitable to remain as an MPF intermediary, the four regulators (MPFA, MA, IA and SFC) and the SROs will be guided by the following principles for the conduct of business.

### **1. Honesty and Fairness**

An MPF intermediary should conduct his business honestly, fairly, in good faith and with integrity at all times.

### **2. Diligence**

In conducting his business activities, an MPF intermediary should act with due skill, care, and diligence and give advice only on those matters in which he is competent to deal with or otherwise seek advice from his senior/the relevant promoter where necessary.

### **3. Capabilities**

An MPF intermediary should have and employ effectively the resources and procedures which are needed for the proper performance of his business activities.

### **4. Information about Clients**

When advising clients on the selection of constituent funds, an MPF intermediary should objectively take into consideration his clients' interests, where practicable, his clients' financial situation, investment experience, risk preferences and investment objectives.

### **5. Information for Clients**

An MPF intermediary should make adequate disclosure of relevant material information in his dealings with his clients.

### **6. Conflicts of Interest**

An MPF intermediary should try to avoid conflicts of interest, and when they cannot be avoided, should disclose such conflicts to his clients and ensure that his clients are fairly treated.

### **7. Client Assets**

An MPF intermediary should ensure that client assets are promptly and properly accounted for.

## **8. Compliance**

An MPF intermediary should comply with all regulatory requirements applicable to the conduct of his business activities.

## **9. Responsibility of Senior Management**

Senior management (including the responsible officer) of an MPF corporate intermediary should bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the corporation. In determining where responsibility lies and the degree of responsibility of a particular individual, regard shall be had to that individual's apparent or actual authority in relation to the particular business operation, and the level of control or knowledge he may have concerning any failure by the corporation or persons under his supervision to follow this Code.

The four regulators have referred to the principles listed above in compiling the code of conduct set out in the next chapter.

## CHAPTER 4 - CODE OF CONDUCT

An MPF intermediary is expected to abide by the following provisions in conducting his business:

### 1. Honesty and Fairness

- 1.1 An MPF intermediary should ensure at all times that any representations made and information provided to clients are accurate and not misleading.
- 1.2 An MPF intermediary should not pay or offer to pay any rebate, commission or other incentives not specified in the offering document as an inducement to any prospective clients. This does not apply to incentives offered by a promoter to its clients.
- 1.3 An MPF intermediary should not make inaccurate or misleading statements about any other MPF intermediaries, trustees or service providers.
- 1.4 An MPF corporate intermediary should:
  - (a) be familiar with the Prevention of Bribery Ordinance (Cap. 201) and follow the guidance issued by the Independent Commission Against Corruption;
  - (b) maintain written guidelines, including monetary limits, about the offer and acceptance by staff members of gifts, rebates or other benefits received from clients or business contacts; and
  - (c) maintain a register of benefits received above the specified limit.
- 1.5 An MPF individual intermediary should not solicit or accept an advantage without permission of the senior management (including responsible officer) when conducting the business activities of the MPF corporate intermediary.

### 2. Diligence

- 2.1 An MPF intermediary should take all reasonable steps to carry out promptly client instructions.
- 2.2 An MPF intermediary should make every reasonable effort to ensure that his advice and recommendations are suitable to the needs and resources of his clients.
- 2.3 An MPF intermediary should give advice only on those matters in which he is competent and properly authorized to deal with or otherwise seek professional advice or advice from his senior/the relevant promoter when necessary.

### **3. Capabilities**

- 3.1 An MPF corporate intermediary should ensure at all times that any person it employs or appoints to conduct business for or with clients is fit and proper/suitable and otherwise qualified, including having passed an MPF intermediaries examination and having relevant professional training or experience, to act in the capacity so employed or appointed.
- 3.2 An MPF corporate intermediary should ensure at all times that it has adequate resources and satisfactory internal control procedures for compliance with this Code.
- 3.3 An MPF individual intermediary should ensure at all times that he would not carry on the business of advising clients on securities (including unit trusts) unless he is:
  - (a) a licensed representative licensed to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities under the Securities and Futures Ordinance (Cap. 571); or
  - (b) an employee of authorized institution whose name has been entered in the Register maintained by the HKMA to carry on Type 1 (dealing in securities) and/or Type 4 (advising on securities) regulated activities.
- 3.4 An MPF intermediary should ensure at all times that he would not advise clients on insurance policies unless he is qualified under the Insurance Companies Ordinance (Cap. 41).

### **4 Information about Clients**

- 4.1 An MPF intermediary, when selling MPF schemes to employers, self-employed persons or preserved account holders, should take all reasonable steps to establish the true and full identity of each of his clients.
- 4.2 An MPF intermediary, when advising clients on the selection of constituent funds, should consider his clients' interests objectively and where practicable, his clients' financial situation, risk preference, and investment knowledge, experience and objectives relevant to the services to be provided.
- 4.3 An MPF intermediary, when making a recommendation or solicitation, should ensure the suitability of such recommendation or solicitation for that client, having regard to the information disclosed by and other circumstances relating to the client.
- 4.4 An MPF intermediary should treat all information supplied by prospective clients or clients as confidential.

## **5. Information for Clients**

- 5.1 An MPF individual intermediary, in the initial contact with clients, should identify himself with his business card bearing his MPF intermediary registration number and explain to clients what types of advice/service he can render in accordance with the conditions prescribed on the MPF card/MPF certificate.
- 5.2 An MPF intermediary should provide clients with adequate information about the corporation he represents (including its business address) and any relevant conditions or restrictions under which he or the corporation he represents conducts his/its business.
- 5.3 An MPF intermediary should explain to clients the key features of MPF schemes offered to enable clients to compare them with other MPF schemes available in the market. Similarly, an MPF intermediary should explain to clients the key features of constituent funds offered to enable clients to compare them with other constituent funds available within an MPF scheme.
- 5.4 An MPF intermediary should provide all material information (in respect of MPF schemes/constituent funds which he sells or advises on) necessary for clients to make a well informed decision about selection of MPF schemes/constituent funds. There should be documentary proof that such material information has been provided to clients. If the final advice given to a client is not contained in the material information provided, it should be reduced to writing.
- 5.5 An MPF intermediary should provide his clients with the relevant offering documents and marketing materials when selling or advising on an MPF scheme and should only use offering documents or marketing materials provided by the promoter of the MPF scheme. The promoter should ensure that the offering documents have been authorized by the SFC and approved by the MPFA and marketing materials have been authorized by the SFC, the information contained therein is up to date, accurate and not misleading, performance claims can be verified, and that there are appropriate risk disclosures and warnings.
- 5.6 An MPF intermediary, when asked about the calibre of the investment managers involved in managing investments in respect of MPF schemes, may make reference to past performance of SFC authorized funds managed by the investment managers on a restrictive basis provided that the reference would not be false, biased, misleading or deceptive. The MPF intermediary must, as a bare minimum, explain to his clients that the SFC authorized funds and the MPF schemes are subject to different regulatory regimes, and investment restrictions and fees and expenses would likely differ. In addition, the MPF schemes may not have any track record. Therefore, the past performance records of SFC authorized funds may only serve as a general reference. No comparison should be made to the MPF schemes when quoting the performance of the SFC authorized funds. Past performance of the SFC

authorized funds and information on the MPF schemes must not appear in the same document.

- 5.7 An MPF intermediary, when selling or advising on MPF schemes which offer guarantees, should provide clients with information regarding the guarantee features, the guarantor, and the period of the guarantee if it is only for a limited period. An MPF intermediary should also advise clients on the cost of the guarantee, the dilution of performance due to the guarantee structure in place as well as the material conditions that will affect the scope or validity of the guarantee.

## **6. Conflicts of Interest**

- 6.1 An MPF intermediary, if he has a material interest in the recommended investment which gives rise to an actual or potential conflict of interest, should disclose that material interest or conflict to the client and take all reasonable steps to ensure fair treatment of the client.
- 6.2 An MPF corporate intermediary should have procedures in place to ensure that staff, who are involved in MPF selling/advising business, are aware of the requirements relating to disclosure of conflicts of interest.
- 6.3 An MPF individual intermediary, who acts as a representative for more than one corporation, should make clear to clients he is acting on behalf of which one of the corporations.

## **7. Client Assets**

- 7.1 An MPF intermediary should keep client monies/assets separable from his own monies/assets. He is not allowed to use client monies/assets for any purpose other than for the purposes of the client.
- 7.2 An MPF intermediary must not receive cash payments and must ensure all client payments (in the form of cheques) are made payable to the trustee of the MPF scheme only.

## **8. Compliance**

- 8.1 An MPF intermediary should only sell or advise on MPF schemes/constituent funds which are registered with/approved by the MPFA.
- 8.2 An MPF corporate intermediary should ensure that only those who are qualified to act as MPF intermediaries are allowed to sell/advise on MPF schemes.

- 8.3 An MPF corporate intermediary should ensure that only those that are fit and proper/suitable and competent are allowed to engage in the selling/advising activities of MPF schemes.
- 8.4 An MPF corporate intermediary should ensure that at least one responsible officer must be appointed for the supervision of its selling/advising activities on MPF schemes at all times.
- 8.5 An MPF corporate intermediary should keep a list of MPF intermediaries acting on its behalf and should, as soon as practicable, notify the MPFA of any changes.
- 8.6 An MPF individual intermediary, when selling/advising on MPF schemes, should only act on behalf of a corporation whose name appears on his MPF card/MPF certificate.
- 8.7 An MPF individual intermediary, if acting on behalf of several corporations at the same time, should ensure that he obtains a new MPF certificate when he is no longer acting on behalf of one of the corporations whose name appears on the MPF card/MPF certificate.
- 8.8 An MPF corporate intermediary should notify the MPFA and the relevant regulator(s) of any misconduct of any MPF intermediaries acting on its behalf that comes to its notice.
- 8.9 An MPF corporate intermediary should lodge with the MPFA an annual return within the stipulated timeframe.
- 8.10 An MPF corporate intermediary should ensure that its sponsored MPF intermediaries comply with the CPD requirement.
- 8.11 An MPF corporate intermediary should maintain written procedures to comply with all relevant legislation against money laundering.
- 8.12 An MPF intermediary should not engage in prohibited business practices such as guaranteeing clients that they will make money, selling unregistered schemes, or failing to bring clients' written complaints to the notice of the corporation on whose behalf he acts.
- 8.13 An MPF corporate intermediary should comply with, and implement and maintain effective measures to ensure compliance with the relevant law, rules and guidelines. These procedures should cover legal and regulatory requirements, business practices, measures to prevent abusive practices, controls and systems. Any non-compliance must be reported promptly to the MPFA and the relevant regulator(s).
- 8.14 An MPF corporate intermediary should take reasonable steps, including the establishment and maintenance of written procedures, to ensure that sufficient information is recorded and retained about its business.

- 8.15 An MPF corporate intermediary should at all times be fully responsible for the acts or omissions of his representatives in respect of the conduct of its business.

## **9. Responsibility of Senior Management**

- 9.1 Senior management (including the responsible officer) should ensure that the corporation maintains appropriate standards of conduct and has proper controls and procedures in place, and ensure that the individual intermediaries sponsored by the corporation comply with the provisions of the Code and remain fit and proper to be registered as MPF intermediaries.

## **10. Complaints**

- 10.1 An MPF intermediary should co-operate with the MPFA and the relevant regulator(s) to establish the facts in the event of a complaint concerning himself.
- 10.2 An MPF corporate intermediary should ensure that:
- (a) complaints from clients are handled in a timely and appropriate manner;
  - (b) complaints are promptly responded to by the MPF intermediary concerned, and if the complaint is not satisfactorily resolved, steps are taken to investigate the complaint by the senior officer of the subject of the complaint, or by the designated compliance officer;
  - (c) if a complaint is not remedied promptly, the client is advised of any further steps which may be available to the client under the regulatory system;
  - (d) a report is filed with the MPFA and the relevant regulator(s) of any complaints which have not been satisfactorily resolved within two months of the receipt of the complaints and that the MPFA and the relevant regulator(s) are kept informed of progress of these unresolved complaints;
  - (e) the MPFA and the relevant regulator(s) are informed immediately of any complaints of a serious nature, such as misappropriation of client funds or forgery of client documents; and
  - (f) all complaints are fully documented and a register of complaints is maintained.

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## *Representative Examination Questions*

### Type “A” Questions

- 1 To give some proof of qualification each qualified MPF intermediary will be provided with:
- (a) a special marking on their I.D. card; .....
  - (b) an MPF certificate issued by the MPFA; .....
  - (c) an identity card issued by their employer; .....
  - (d) a special licence, similar to a driving licence; .....

[Answer is in **7.3**]

### Type “B” Questions

- 2 Which of the following are the important objectives of the regulatory framework for MPF marketing intermediaries?
- (i) minimizing the risks of mis-selling
  - (ii) offering possible protection for service providers
  - (iii) being fair and equitable to trustees
  - (iv) maximizing protection for scheme members
- (a) (i) and (iv) only; .....
  - (b) (i), (ii) and (iii) only; .....
  - (c) (ii), (iii) and (iv) only; .....
  - (d) (i), (ii) (iii) and (iv). .....

[Answer is in **7.2**]

- 3 Which of the following are among the General Principles within the Code of Conduct for MPF Intermediaries?
- (i) honesty and fairness
  - (ii) conflict of interest to be avoided
  - (iii) clients must be properly informed at all times
  - (iv) due skill, care and diligence is expected at all times
- (a) (i) only; .....
  - (b) (i) and (ii) only; .....
  - (c) (i), (ii) and (iii) only; .....
  - (d) (i), (ii), (iii) and (iv). .....

[Answer is in the  
Code of Conduct for MPF Intermediaries]

*[If required, answers may be found at the end of the Study Notes.]*

## **APPENDIX I**

### **ABBREVIATIONS**

APIF	Approved Pooled Investment Fund
ABS	Annual Benefit Statement
Code of Conduct	Code of Conduct for MPF Intermediaries
CPD	Continuing Professional Development
DBS	Defined Benefit Scheme
DCS	Defined Contribution Scheme
Exemption Regulation	Mandatory Provident Fund Schemes (Exemption) Regulation
Fees Regulation	Mandatory Provident Fund Schemes (Fees) Regulation
General Regulation	Mandatory Provident Fund Schemes (General) Regulation
HKMA	Hong Kong Monetary Authority
IA	Insurance Authority
MA	Monetary Authority
MPF	Mandatory Provident Fund
MPFA	Mandatory Provident Fund Schemes Authority
MPFSO	Mandatory Provident Fund Schemes Ordinance
MPF certificates	Mandatory Provident Fund intermediary certificates
MPF legislation	MPFSO and its subsidiary legislation
NAV	Net Asset Value
ORSO	Occupational Retirement Schemes Ordinance
RTC	Registered trust company in Hong Kong
SFC	Securities and Futures Commission
SROs	Self-regulatory organizations of the insurance industry

## **APPENDIX II**

### **MPF LEGISLATION, CODES, GUIDELINES AND STANDARDS**

**(As at 30 September 2009)**

#### **A. MPF Legislation**

Mandatory Provident Fund Schemes Ordinance  
Mandatory Provident Fund Schemes (General) Regulation  
Mandatory Provident Fund Schemes (Exemption) Regulation  
Mandatory Provident Fund Schemes (Fees) Regulation  
Mandatory Provident Fund Schemes (Exemption) Regulation (Specification of Date Under Sections 5 and 16) Notice  
Mandatory Provident Fund Schemes (Contributions for Casual Employees) Order  
Mandatory Provident Fund Schemes (Specification of Permitted Periods) Notice  
Mandatory Provident Fund Schemes Rules  
Mandatory Provident Fund Schemes (Compensation Claims) Rules  
Mandatory Provident Fund Schemes (Winding Up) Rules

#### **B. MPF Codes**

Code of Conduct for MPF Intermediaries  
Code on MPF Investment Funds  
Erratum to the Code on MPF Investment Funds  
Code on Disclosure for MPF Investment Funds

#### **C. MPF Guidelines**

##### **Part I Guidelines on Licensing**

- I.1 Guidelines on Application for Approval as Trustees and Application for Approval as Controllers of Approved Trustees
- I.2 Guidelines on Application for Registration of Provident Fund Schemes
- I.3 Guidelines on Custodians
- I.4 Guidelines on Eligible Insurers
- I.5 Guidelines on Application for Approval of Constituent Funds
- I.6 Guidelines on Application for Approval of Pooled Investment Funds
- I.7 Guidelines on Central Securities Depositories
- I.8 Guidelines on Custodial / Subcustodial Agreement
- I.9 Guidelines on Approved Credit Rating Agencies

## **Part II Guidelines on Reporting Requirements**

- II.1 Guidelines on Monthly Returns of Registered Schemes
- II.2 Guidelines on Monthly Returns of Approved Pooled Investment Funds being Capital Preservation Funds
- II.3 Guidelines on Quarterly Returns of Registered Schemes
- II.4 Guidelines on Annual Statements of Registered Schemes
- II.5 Guidelines on Annual Statements of Approved Pooled Investment Funds
- II.6 Guidelines on Internal Control Report for Each Registered Scheme
- II.7 Guidelines on Half-Yearly Returns of Approved Pooled Investment Funds
- II.8 Guidelines on Monthly Statistical Returns of Registered Schemes
- II.9 Guidelines on Notification of Events of Significant Nature

## **Part III Guidelines on Investment**

- III.1 Guidelines on Debt Securities
- III.2 Guidelines on Equities and Other Securities
- III.3 Guidelines on Eligible Overseas Banks and Authorized Financial Institutions
- III.4 Guidelines on Approved Exchanges
- III.5 Guidelines on Investment Managers
- III.6 Guidelines on Capital Preservation Funds
- III.7 Guidelines on Securities Lending
- III.8 Guidelines on Repurchase Agreements
- III.9 Guidelines on Reserving Standards for Investment Guarantees
- III.10 Guidelines on Index-Tracking Collective Investment Schemes
- III.11 Guidelines on Spread Requirements
- III.12 Guidelines on Deposit
- III.13 Guidelines on Requirements for Securities to be Considered as “to be Listed”

## **Part IV Guidelines on Scheme Operations**

- IV.1 Guidelines on Disclosure of Annual Fees (Repealed with effect from June 2004)
- IV.2 Guidelines on Reports Relating to Payment of Mandatory Contributions
- IV.3 Guidelines on Election Forms for Transfer of Accrued Benefits
- IV.4 Guidelines on Payment of Accrued Benefits – Documents to be Submitted to Approved Trustees
- IV.5 Guidelines on Payment of Accrued Benefits – Permanent Departure from Hong Kong
- IV.6 Guidelines on Notice for Unclaimed Benefits (Repealed with effect from

November 2008)

- IV.7 Guidelines on Fees for Portability
- IV.8 Guidelines on Enrolment and Contribution Arrangements for Relevant Employees Other Than Casual Employees
- IV.9 Guidelines on Enrolment and Contribution Arrangements for Casual Employees
- IV.10 Guidelines on Enrolment and Contribution Arrangements for Self-employed Persons
- IV.11 Guidelines on Contribution Period in Respect of a Relevant Employee
- IV.12 Guidelines on Relevant Income in Respect of a Relevant Employee
- IV.13 Guidelines on Compensation Fund
- IV.14 Guidelines on Remittance Statement
- IV.15 Guidelines on Person Exempt under Section 4(3) of the Mandatory Provident Fund Schemes Ordinance
- IV.16 Guidelines on MPF Coverage on Employees Working Outside Hong Kong
- IV.17 Guidelines on Contribution Arrangement of a Self-employed Person
- IV.18 Guidelines on Contribution Arrangement of a Self-employed Person Who Sustains a Loss
- IV.19 Guidelines on Minimum and Maximum Levels of Relevant Income of a Self-employed Person
- IV.20 Guidelines on Prepayment of Contributions
- IV.21 Guidelines on Unclaimed Benefits
- IV.22 Guidelines on Statement Required under Section 7AB of the Mandatory Provident Fund Schemes Ordinance

**Part V Guidelines on ORSO Interface**

- V.1 Guidelines on MPF Exempted ORSO Schemes – Application for Exemption of ORSO Exempted Schemes
- V.2 Guidelines on MPF Exempted ORSO Schemes – Application for Exemption of ORSO Registered Schemes
- V.3 Guidelines on MPF Exempted ORSO Schemes – Treatment of Accrued Rights of Existing Members who Join MPF Schemes
- V.4 Guidelines on MPF Exempted ORSO Schemes – Preservation of Benefits
- V.5 Guidelines on MPF Exempted ORSO Schemes – Illustrative Examples
- V.6 Guidelines on MPF Exempted ORSO Schemes – Application for Approval of Appointment of Trustees
- V.7 Guidelines on MPF Exempted ORSO Schemes – Application for Approval of Appointment of Directors of Trustees
- V.8 Guidelines on MPF Exempted ORSO Schemes – Application for Withdrawal of Exemption Certificate of an ORSO Exempted Scheme
- V.9 Guidelines on MPF Exempted ORSO Schemes – Application for

Withdrawal of Exemption Certificate of an ORSO Registered Scheme

V.10 Guidelines on MPF Exempted ORSO Schemes – Filing of Annual Report

V.11 Guidelines on MPF Exempted ORSO Schemes – Withdrawal of Minimum MPF Benefits

**D. Standards**

Compliance Standards for MPF Approved Trustees

## APPENDIX III

### COVERAGE

The following is a list of different types of jobs with explanations as to why employees of these jobs are generally included in or excluded from the MPF system.

<b>Job Characteristics</b>	<b>Covered by MPF(Y/N)?</b>	<b>Remarks</b>
<b>1. Domestic Employees<sup>1</sup></b>		
Baby sitters, domestic servants and gardeners who render their services at the employer's household	N	Services rendered in a residential premises
Baby sitters, domestic servants and gardeners whose services are not rendered at the employer's household	Y	Services not rendered in a residential premises
Chauffeurs, bodyguards and boatboys employed by an individual	Y	Services not rendered in a residential premises
Licensed caretakers employed by Owners Incorporation	Y	Services not rendered in a residential premises
Security guards employed by an individual to provide security services for his residential premises	N	Services are substantially rendered in the residential premises of the employer
<b>2. Short-term Employees</b>		
Employees, part-time workers and summer job workers whose employment is terminated within 60 days but are re-employed by the same employer. The employment is considered a continuous contract (as defined in the Employment Ordinance) for more than 60 days	Y	Please seek advice from the Labour Department if you are in doubt of what constitutes a continuous contract

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<sup>1</sup> "Domestic employee" is defined as one whose contract of employment is wholly or substantially for the provision of domestic services in the residential premises of the employer. "Domestic" means "of or relating to a home or family affairs or relations". Whether services are domestic in nature is a matter of fact.

<b>Job Characteristics</b>	<b>Covered by MPF(Y/N)?</b>	<b>Remarks</b>
<b>3. Overseas Employees</b>		
Employees entering HK under a dependent visa	Y	Permission is given to the employee to enter HK for purposes other than of employment
Employees entering HK under an employment visa with permission to stay for a period not exceeding 13 months which is extended such that the total period of stay exceeds 13 months	N – for the first 13 months in HK;	---
	Y - After the first 13 months in HK	---
Employees employed in or from HK by companies engaging in business in HK, working in HK but are residing outside HK	Y	For example, employees living in Shenzhen but commute to HK on a daily basis
Employees employed outside HK by foreign companies and are working outside HK	N	Whether the employees are residents of HK is irrelevant
<b>4. Self-employed Persons</b>		
Overseas partners of a partnership engaging in business in HK	N	---
Farmers, fishermen	Y	Usually they are self-employed persons unless employed by another farmer or fisherman
Hawkers who are not self-employed	Y	---
Drivers of taxis, public light buses and vans who are not owners of the vehicles	Y	Usually they are self-employed persons
Owners of taxis, public light buses and vans whose income is derived from both driving the vehicles and renting the vehicles to other drivers	Y	Usually they are self-employed persons
A taxi owner who derives his income from renting his taxi	Y	Usually they are self-employed persons
Private tutors and piano teachers giving private lessons	Y	Usually they are self-employed persons

<b>Job Characteristics</b>	<b>Covered by MPF(Y/N)?</b>	<b>Remarks</b>
<b>5. Industry Schemes</b>		
Recruiters in the catering industry	Y	Usually they are self-employed agents responsible for recruiting casual workers for banquets in large catering establishments such as hotels
Recruiters in the construction industry	Y	Usually they are employees of the specialist contractors (bar-bending & electrical works) responsible for recruiting workers on site
Substitute workers in the catering and construction industries	Y	Usually they are casual workers doing another person's job for a few days and are paid by that person in cash for their services
Summer job workers in the catering or construction industries	Y	---
<b>6. Others</b>		
Civil servants who are not entitled to pension benefit	Y	---
Local staff of Consulate General	Y	---
Teachers and other staff members of a private school	Y	---
Shareholders whose only source of income is the dividend received	N	Neither an employee nor a self-employed person
Landlords whose only source of income is the rent of their properties but they are not carrying on a business of renting out properties.	N	Neither an employee nor a self-employed person

## APPENDIX IV

### RELEVANT INCOME

The following is a list of different types of “incomes” with explanations as to why these incomes are generally regarded or not regarded as “relevant income” under the MPF system.

Income Types	“Relevant income” (Y/N)	Remarks
<b>1. Wages and Salaries</b>		
13 <sup>th</sup> month pay	Y	The number of months may vary according to the employment contract
Bonus	Y	A performance-linked bonus may be related to full or partial completion of a project or projects
- at employer’s discretion		
- performance linked		
End-of-contract gratuity	Y	---
<b>2. Reimbursement/Allowance</b>		
Payment of reimbursement nature	N	Reimbursement of expenses incurred by the employee for employment related goods and services which are necessary in the performance of an employment duty.
- self-improvement education expenses		
- uniform laundry expenses		
- meals provided or obtained during office hours		
- mobile phone service charges		
- professional organization membership fee		
- entertainment expenses		
- mileage duty expenses		
Cash allowances	Y	Allowance provided by the employer in cash which the employee may spend as he sees fit
Internship allowance	Y	Allowances provided by the employer in cash, in connection with a vocational training programme
Leave allowance	Y	---
- annual leave		
- compassionate leave		
- examination leave		
- marriage leave		
- sick leave		

Income Types	“Relevant income” (Y/N)	Remarks
<b>3. Transportation and Car Subsidy</b>		
Transportation subsidy - free ticket / pass for use of public transport - parking coupons	N	Non-monetary benefits
Car subsidy - free use of car	N	Non-monetary benefits
- fuel and oil - maintenance expenses - payment of car registration and licence fees for car owned by an employee	Y	Employer provides cash payment for the benefit of employee
<b>4. Commission</b>		
- based on amount of transaction - based on number of transaction - on project basis irrespective of the amount or the number of transactions	Y	---
<b>5. Tips</b>		
Tips collected by the employer	Y	Tips collected via the employer and service charges included in the bill (including amounts inserted by customers on credit card bills) which are subsequently distributed partly or fully to the employees
Tips not collected by the employer	N	Money paid by customers directly to an employee, put in tin box or left by the customers on the table, and which is retained by the employee or shared among the employees without any intervention by the employer
“Pickle charges” (peanuts, snacks, pickle provided on table) shared by employees	Y	Restaurant owners usually give the pickle charges collected to employees. An implied term of the contract of employment

Income Types	“Relevant income” (Y/N)	Remarks
<b>6. Employees’ Benefits</b>		
Marriage gifts	N	Payment made to an employee on a significant personal event
Holiday tour package	N	Non-monetary benefits. Expenses paid by the employer in respect of a completed holiday to cover expenses included in the package, such as transportation, accommodation, food, etc
Meals consumed on the spot	N	Non-monetary benefits
Meals provided in the form of vouchers	N	Non-monetary benefits
<b>7. Compensation</b>		
Award determined by a court or tribunal representing “wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance”	Y	---
Payment in lieu of notice	N	Payment made as a compensation for employment termination rather than a consideration for services rendered
Severance payment	N	Specifically excluded from the definition of “relevant income”
Long service payment	N	Specifically excluded from the definition of “relevant income”
<b>8. Others</b>		
Dividend income	N	Return on investment received by shareholders
Share options	N	Non-monetary benefits
Gains realized from share options	N	---
Medical claims reimbursement	N	Payments that are made by third parties, rather than the employer, to the employee pursuant to an insurance contract purchased by the employer covering that employee
Employment-related medical expenses incurred by employee but paid directly by employer	N	---

## APPENDIX V

### DATE OF PAYMENT OF CONTRIBUTION

On 1 November 2008, the legislative amendment removing the 30-day Settlement Period for the payment of mandatory contributions came into operation. According to the Mandatory Provident Fund Schemes Ordinance, employers must pay contributions for their employees on or before the 10<sup>th</sup> day of each month (i.e. on or before the contribution day). Meanwhile, self-employed persons (SEPs) must pay contributions by the specified day in each month if contributions are paid on a monthly basis or at or before the end of the scheme financial year if contributions are paid on a yearly basis.

Employers and SEPs may choose to pay mandatory contributions through various methods/channels as provided by the trustees. Payment by different methods/channels will have implications on the date on which the contribution is considered paid. Please refer to the table below for details.

Payment methods/channels	Points to note
By post	<ul style="list-style-type: none"><li>➤ Contribution is considered paid on the date on which the payment cheque would normally be delivered by post. Therefore, sufficient mailing time should be allowed.</li><li>➤ Ensure sufficient funds in the bank account for cheque clearance (if the cheque is bounced, the contribution will be considered as not having been paid).</li></ul>
In person (through bank branches/customer service counters)	<ul style="list-style-type: none"><li>➤ Contribution is considered paid on the date payment cheque is deposited at the bank branch/customer service counter.</li><li>➤ Ensure sufficient funds in the bank account for cheque clearance (if the cheque is bounced, the contribution will be considered as not having been paid).</li></ul>
Direct debit	<ul style="list-style-type: none"><li>➤ Contribution is considered paid on the date on which the employer's remittance statement is received by the trustee*.</li></ul>

	<ul style="list-style-type: none"> <li>➤ For a SEP who does not need to submit remittance statement, contribution is considered paid on the date on which the trustee issues direct debit instruction.</li> <li>➤ Ensure sufficient funds in the bank account for debiting (if the debit is unsuccessful, the contribution will be considered as not having been paid).</li> </ul>
Direct credit	<ul style="list-style-type: none"> <li>➤ Contribution is considered paid on the date on which the MPF scheme's bank account is credited.</li> <li>➤ Ensure the funds are credited to the MPF scheme's bank account on or before the 10<sup>th</sup> day of each month.</li> </ul>
Deduction of reserve in the employer's account to settle future contribution (subject to the scheme rules)	<ul style="list-style-type: none"> <li>➤ Contribution is considered paid on the date on which the employer's remittance statement is received by the trustee*.</li> <li>➤ Ensure sufficient funds in the employer's account for offsetting; otherwise, the employer should make up the difference in amount on or before the 10<sup>th</sup> day of each month (underpayment will be treated as default contribution).</li> </ul>

\*Please see "Remittance statement" section with respect to when a remittance statement is considered received.

### **Remittance statement**

**Employers must also submit to trustees a duly completed remittance statement accompanying the contribution on or before the 10<sup>th</sup> day of each month.** If employers send their payment and the remittance statement to the trustees separately, the receipt date of the remittance statement shall be:

- (a) the date the remittance statement would normally be delivered if it is sent by post;
- (b) the date the remittance statement is deposited at a bank branch/customer service counter; or
- (c) the date the remittance statement is faxed to the trustee.

Employers are recommended to keep a copy of the payment cheque and remittance statement as record before sending to trustees. If the remittance statement is sent by fax, employers are recommended to print and keep a journal recording the document sent date to support the submission by the employers to the trustees.

**Avoid payment by cash and through intermediaries**

Payment of contributions by cash should be avoided. Moreover, payments through MPF intermediaries, whether by cash or otherwise, should be avoided. Instead, payments should be made directly to the trustees or their designated bank branches/ customer service counters.

**Consequences of late payment**

Employers and SEPs must make mandatory contributions on time. With the legislative amendments of removing the 30-day Settlement Period coming into operation on 1 November 2008, trustees are no longer required to send notices to employers and SEPs when contributions have not been made on time, and will directly report such cases to the MPFA. Employers or SEPs who fail to pay mandatory contributions on time will have to pay a contribution surcharge. Offenders may also be liable to a financial penalty or prosecution. For details, please consult your trustee or refer to the MPFA's "Open a brand new page of MPF" leaflet.

## APPENDIX VI

### MPF GUIDE FOR EMPLOYEES AND EMPLOYERS

The MPF legislation came into effect on 1 December 2000. Employers have to enrol those employees who have been in their employ for not less than 60 days\* in an MPF scheme and make contributions for them. Failure to enrol an employee may result in a maximum of 3 years' imprisonment and a maximum fine of HK\$350,000, while failure to make contributions may result in a maximum of 4 years' imprisonment and a maximum fine of HK\$450,000.

#### Notes for Employees

- An employer has to enrol an employee in an MPF scheme within 60 days\* after the date of his employment.
- Once the employee has been enrolled in an MPF scheme, the employee has the right to choose constituent funds offered by the scheme. The employee should complete an enrolment form and return it to the trustee through his employer for processing.
- The trustee must give the employee a **membership certificate** within 60 days after he becomes a member of the scheme. The employee should check carefully the information contained in his certificate such as his personal particulars and the name of the scheme. He should inform the trustee immediately of any discrepancies.
- Where the wage period of an employee is not more than 1 month (e.g. weekly or monthly), the employee is **not** required to contribute for the first 30 days and any wage period commencing on or before the 30th day of employment. This means that his MPF contribution starts from the first complete wage period commencing on or after 31st day of his employment.
- Where the wage period of an employee is more than 1 month (e.g. quarterly), the employee is **not** required to contribute for the period from the date of employment to the last day of the calendar month in which the 30th day of employment falls.
- The employer's contribution starts from the first day of the employee's employment.

- The employer has to deduct 5% of the employee's "relevant income"\*\*, together with the employer's 5% portion, for remitting to the employee's MPF account not later than the 10<sup>th</sup> day of the following month. All mandatory contributions will be immediately vested as the employee's accrued benefits. Not later than 7 working days after the contribution is made, the employer has to provide the employee with a **monthly pay-record**. The employee should check whether the amount of contribution is correct.
- As for the performance of the MPF funds, the employee may refer to the prices quoted by the service providers in newspapers. The employee may also call his service provider for enquiries.
- The trustee has to provide the employee with an **annual benefit statement** setting out the total contribution amount and the value of accrued benefits over the course of the year.
- The employee should regularly review his MPF account status and portfolio performance as set out in the annual benefit statement and fund fact sheet issued by the trustee.
- When the employee changes his job, he can arrange for transfer of his MPF benefits by notifying the MPF trustee of his new employer or the MPF trustee of a scheme he has chosen. The transferor trustee has to complete the transfer arrangement within 30 days after being notified of his transfer option.

### **Notes for Employers**

- After choosing an MPF scheme, the employer has to fill out an application form for enrolment. The MPFA will issue a **participation certificate** to the employer through the trustee. The employer is required to display it in a conspicuous location at the premise where his employees are employed.
- If there is any change of employer's name, the employer has to report to the trustee within 30 days after such change for the MPFA to issue a new participation certificate showing the employer's new name to the employer concerned.
- The employer should arrange with the trustee to conduct briefing sessions for his employees on details of the MPF scheme they have joined and the fund options offered by the scheme.
- The employer should complete all the necessary administrative work to prepare for calculation of his employees' "relevant income" and payment of MPF contributions.
- The employer should calculate the "relevant income" of his employees and the amount

- Together with the contributions, the employer has to submit a **remittance statement** to the trustee setting out clearly the “relevant income” of his employees and the contribution amounts. The employer can approach his trustee for format and details of his remittance statements\*\*\*.
- The employer should provide each of his employees with a **monthly pay-record** within 7 working days after the contribution is made. The pay-record should, among other things, contain information such as the amount of relevant income payable during the month, amount of contributions (mandatory and voluntary) made by the employer, amount of contributions (mandatory and voluntary) made by employees and the date on which contributions were paid. An employer who provides false pay-records to his employee is liable to a maximum fine of HK\$100,000 and 12 months’ imprisonment on the first occasion on which the person is convicted of the offence and HK\$200,000 and 2 years imprisonment on each subsequent occasion.
- The employer should keep a proper record of all documents related to MPF participation including payment records (e.g. total amount and date of contributions), the employment date of employees and their particulars (e.g. names of the employees, correspondence addresses and their voluntary contributions made) and monthly remittance statements.
- When an employee ceases to be employed by the company, the employer should notify the trustee within 10 days after the last day of the calendar month in which the employee ceases employment and state the exact date on which the employment ceased. The employer may use the remittance statement to inform the trustee of the employee’s cessation of employment and the date of cessation.
- \* *The 60-day rule does not apply to casual employees in the catering and construction industries. Employers must make contributions for them even if they have been employed for less than 60 days.*
- \*\* *“Relevant income” of an employee includes wages, salaries, leave pay, fee, commission, bonus, gratuity, perquisite or allowance, but excludes severance payments and long service payments.*

*Mandatory contributions are subject to minimum and maximum levels of income. Employees earning less than HK\$5,000 a month do not need to contribute but their employers have to contribute 5% of the employees’ income. For employees earning more than HK\$20,000 a month, mandatory contributions are capped at HK\$1,000. In addition to mandatory contributions, employers and employees can make contributions*

*on a voluntary basis.*

*\*\*\* With effect from 1 December 2008, even if an employer fails to enrol his employee in an MPF scheme, the employer is still obliged to make contributions for the employee. Such contributions to be accompanied by a statement (which is similar to a remittance statement) must be paid to the MPFA on or before the contribution day.*

*The MPFA will deposit the contributions to an MPF scheme in accordance with the MPF legislation for the benefits of the employees concerned. An employer who fails to make contributions for a non-enrolled employee is liable on conviction to a maximum of 4 years' imprisonment and a maximum fine of HK\$450,000.*

## APPENDIX VII

### MPF GUIDE FOR THE SELF-EMPLOYED

The MPF legislation came into effect on 1 December 2000. Self-employed persons (SEP)\* must join an MPF scheme within 60 days from the day they become self-employed.

- The SEP must choose an MPF scheme. The SEP also has the right to choose constituent funds offered by the scheme. The SEP needs to complete an enrolment form and return it to the trustee for processing.
- The SEP needs to prepare for calculation of his “relevant income” and payment of MPF contributions. The contribution amount is 5% of the SEP’s relevant income. The maximum level of the “relevant income” is HK\$240,000 while the minimum level is HK\$60,000 per annum. The SEP can calculate his relevant income by the following means:
  - use the “assessable profits” stated in his most recent notice of assessment;
  - use the basic personal allowance;
  - contribute the maximum amount of HK\$1,000 per month or HK\$12,000 per annum;
  - or
  - make an income declaration to the trustee that it is equal to the assessable profits for the preceding year of assessment.
- The SEP may elect to contribute on a monthly or yearly basis.
  - **Monthly contributions:**  
The SEP must specify in writing to the scheme trustee his monthly contribution day.
  - **Yearly contributions:**  
The contribution day should be the last day of the financial period of the MPF scheme. If the financial year of the MPF scheme starts from 1 January, the SEP has to make contributions by 31 December (i.e. the end of that financial year). In case the SEP joins the scheme in the middle of the year, say on 1 December, he has to make the first contributions by 31 December for the period between 1 December (joining date) and 31 December.
- The SEP must inform the trustee at least 30 days before the end of each financial period of the scheme:
  - the relevant income for the next financial period of the scheme;
  - whether he will contribute monthly or yearly in the next financial period of the scheme.

- The trustee should give the SEP a **notice of acceptance** within 30 days from the date on which he submits all the required information or from the date he agrees to observe and accept the governing rules of the scheme, whichever is the later.
  
- As for the performance of the MPF funds, the SEP may refer to the prices quoted by the service providers in newspapers. The SEP may also call his service provider for enquiries. Each year, the trustee has to provide the SEP with an **annual benefit statement** setting out the total contribution amount and the value of accrued benefits over the course of the year. SEP should regularly review his MPF account status and portfolio performance as set out in the annual benefit statement and fund fact sheet issued by the trustee.
  
- **Suspension of contributions:**  
If the SEP's business sustains a net loss during a **financial period**, he may discontinue payment of mandatory contributions until the "relevant income" derived from his business exceeds the minimum level of HK\$5,000 per month or HK\$60,000 per year. Or if he ceases to be self-employed (e.g. he becomes an employee), he should inform the trustee of his cessation and make the last contribution to the scheme on or before the last day of the contribution period in which he ceases to be self-employed.
  
- \* *An SEP refers to a person whose income is derived from his provision of services or goods other than in the capacity as an employee, such as a sole proprietor or partner of a partnership.*

## APPENDIX VIII

### BASIC CONCEPTS OF INVESTMENT

#### DIFFERENT TYPES OF INVESTMENT INSTRUMENTS

(a) **Money Market Instruments**

Money market instruments refer to interest-bearing financial instruments that usually have short-term maturity periods. Their yields are usually slightly more attractive when compared with deposit rates offered by banks to retail customers. The major types of money market instruments are:

(i) **Treasury Bills**

They are short-term debt securities issued by the government to the public for the purpose of raising money. Investors buy the bills at a discount. At the bill's maturity, the holder receives from the government a lump sum equal to the face value of the bill. The difference between the purchase price and the face value represents the investment return on the bill. For example, the Hong Kong Government issues Exchange Fund Bills.

(ii) **Certificates of Deposit**

These are certificates issued by a bank indicating that a depositor has placed a sum of money with it for a period of time at a specified rate of interest. The deposits may not be withdrawn on demand. Interest rates are usually higher than those on government bills of comparable maturity.

(iii) **Commercial Paper**

These are short-term unsecured debt securities issued by large corporations. Interest rates on commercial paper are higher than those on treasury bills of comparable maturity, reflecting its lower liquidity and higher default risk.

(b) **Bonds**

Also known as debt securities, bonds are issued by a wide variety of organizations, such as governments, government agencies, organizations such as the World Bank, and a range of companies. When you buy a bond, you are in effect lending money to the corporation that issues the bond, which promises to pay interests at regular intervals during the life of the bond and to repay you the principal or face value of the bond together with interests (if any) on a specific date. Certain features to note are:

- (i) Each bond has a face value (or par value) which is the amount to be repaid when the bond is redeemed.

- (ii) A bond usually has a maturity date which is the date the bond is to be redeemed, although some have no maturity dates and are called perpetual bonds.
- (iii) A bond usually has an annual interest rate (or a “coupon rate”), as a percentage of the par value, payable to the bondholder at regular intervals until the maturity date. The periodic interest payments made to holders are usually in the form of “coupons”. Some, however, pay no interest and are called zero coupon bonds.
- (iv) Bonds of different issuers (organizations) may be awarded different investment ratings by international credit rating agencies e.g. Standard and Poor’s, Moody’s, etc. The credit rating reflects to some extent the level of risk attached to the bond.
- (v) The price of a bond moves up and down, but in an opposite direction to interest rates. So if interest rate falls, the higher coupon rate of a bond looks comparatively more attractive and the price of the bond goes up. At times of high inflation, the yield of a bond may lag behind the inflation rate.
- (vi) Unlike equities, bonds do not give the bondholder an ownership interest in the issuing corporation. If the issuer goes bankrupt, the stockholder’s money may be lost. But if there is any money left in the company, the bondholder will be paid before stockholders.

(c) **Equities**

Equities, also known as ordinary shares, are perhaps the widest known type of financial instruments. They are called “shares” because they represent ownership in a corporation. Each share is entitled to a proportion of financial profits of the corporation. Some basic features of equities are:

- (i) If a company makes profits, it may pay dividends and the price of its shares is also likely to rise. The investment return comprises both dividend income and capital appreciation.
- (ii) If a company is unsuccessful, then the value of its shares is likely to decline and the company may cut or terminate dividend payout.
- (iii) Share prices on stock markets can change rapidly depending on the prevailing stock market condition and the financial performance of the company.
- (iv) In general, equities are considered riskier than money market instruments and bonds.

(d) **Derivatives**

These are financial instruments which derive their values from their underlying investments such as bonds or equities. They include options, warrants, futures, etc. The features to be noted are:

- (i) They may be used to reduce investment risk, i.e. to reduce investment loss when the price or value of the primary/underlying asset falls. They are intended to have an “offset effect”, so that profits or losses as a result of price changes in the derivative will offset losses or gains on the primary/underlying asset. The process is very common and is known as **hedging**.
- (ii) They may be used for speculation, i.e. buying or selling derivatives on a “**forward**” or “**future**” basis (deal arranged now, to take place at a designated future time at a pre-determined rate).
- (iii) They are much more speculative in nature than some of the other types of investment. Due to the risk nature, they are only suitable for sophisticated or professional investors.

(e) **Unit Trusts & Mutual Funds**

- (i) A unit trust is an investment vehicle set up under a trust for different investors to pool their monies together for investment.
- (ii) A unit trust may invest in a portfolio of investments such as bonds and equities.
- (iii) It is managed by professional fund managers and sub-divided into “units” based on the market value of the portfolio.
- (iv) Hong Kong law requires that a fund’s assets be held by an independent trustee, responsible for ensuring that the terms of the trust deed are complied with.
- (v) A mutual fund is set up as a company with the objective of investing in shares of other companies. They are essentially the same as unit trusts from an investment point of view, except for their legal structure.

(f) **Insurance Policies**

- (i) Whilst most insurance contracts provide for death, disability or medical benefits with little investment element, certain insurance policies issued to retirement schemes may be linked to investment with little or no insurance element. The latter form of insurance policy may be regarded as an investment vehicle.
- (ii) An insurance policy will be underpinned by an insurance fund consisting of an investment portfolio of securities, including bonds, equities, etc.

- (iii) The insurance fund is managed either by the insurance company issuing the insurance policy or by a professional investment manager appointed by the insurance company.
- (iv) These insurance policies are classified as class G or H insurance business as stipulated in the Insurance Companies Ordinance, depending on whether or not there is any investment guarantee.
- (v) A class G insurance policy is a policy with guarantees on capital or return. It must be backed up by a guarantor which can be the insurance company itself or a financial institution authorized by the MA as a third party guarantor.

### **DIFFERENT TYPES OF INVESTMENT FUND**

There are many types of investment funds, ranging from conservative funds (e.g. money market funds) to high risk funds (e.g. equity funds). Their classification is usually based on the stated investment objectives and underlying investments of the funds. The table on the next page lists the four common types of investment funds.



### Calculation of the Net Asset Value (“NAV”) Per Unit of a Fund

The NAV per unit of a fund is determined by dividing the aggregate market value and the cash holding of the underlying investments of the fund by the number of units issued. All administrative and management fees payable (accrued to date) are to be deducted before the derivation of the NAV of the fund.

$$\text{NAV per unit} = \frac{\text{Total market value of underlying investments} + \text{Cash} - \text{Administrative \& management expenses payable}}{\text{Number of units issued}}$$

## APPENDIX IX

### MPF PUBLICATIONS

(As at 30 September 2009)

<b>Name of Publication in English (if available in English)</b>	<b>Name of Publication in Chinese (if available in Chinese)</b>
Amendments Relating to MPF Schemes Ordinance	有關《強制性公積金計劃條例》的修訂
Date of Payment of Contribution	支付供款的日期
Fee Comparative Platform	收費比較平台
Get to Know the Fees and Charges of Your MPF Funds	了解你的強積金基金收費
Guide on MPF Rights and Obligations for Self-employed Persons	自僱人士強積金權責指南
How to Manage Your MPF When Changing Jobs	轉工一族強積金安排須知
Industry Schemes	行業計劃
MPF Decoder for the Youth	青年積金解碼器
MPF 7 Smart Tips for Smart Employers	強積金精明僱主七大要訣
New Penalties for the MPF Offences – The MPF Schemes (Amendment) (No.2) Ordinance 2008	積金新罰則 – 2008 年強制性公積金計劃(修訂)(第 2 號)條例
Understanding MPF Schemes and ORSO Schemes	認識強積金與職業退休計劃
What Employees Should Know About MPF	強積金僱員精明貼士
	「積積樂隊」與你譜出未來強積金基金資料冊

Note:

- Soft copies of these publications are available on the MPFA website at [www.mpfa.org.hk](http://www.mpfa.org.hk)
- The above publications are for general reference only and do not purport to any legal guidance or professional advice.

## APPENDIX X

### FREQUENTLY ASKED QUESTIONS AND ANSWERS ON MPF SYSTEM

#### Coverage

##### By Employers

*Q.1 My sons and daughters are helping me run my family business. Do I need to enrol them in an MPF scheme?*

A.1 If you are employing your family members to run your family business and if they live at the same address as you, then you are not required to enrol them in an MPF scheme. However, if they do not live at the same address as you, then you have to enrol them in an MPF scheme.

*Q.2 I am running a business on the Mainland. Do I need to enrol my employees who are employed on the Mainland in an MPF scheme?*

A.2 You are not required to enrol your Mainland employees in an MPF scheme. The MPF System provides retirement benefits only to members of the workforce in Hong Kong.

*Q.3 I employ a maid to undertake domestic work for me. Do I need to enrol her in an MPF scheme?*

A.3 “Domestic employees” are exempt persons and are not required to join an MPF scheme.

*Q.4 I have hired a few overseas employees to work for me. Do I need to enrol these expatriates in MPF schemes?*

A.4 If the period during which your expatriate employees is given permission to land or remain in Hong Kong for employment purposes does not exceed 13 months, or if the expatriate employees are members of a provident, pension, retirement or superannuation scheme run in a jurisdiction outside Hong Kong, they are exempt from the MPFSO and do not need to join an MPF scheme.

*Q.5 An expatriate in our company was given permission to stay in Hong Kong for 9 months but later the permission was extended for another 6 months. Do I need to enrol him in an MPF scheme?*

A.5 Assuming your expatriate employee is not covered by any overseas retirement scheme, he ceases to be exempt from the MPFSO from the 14th month onwards. You therefore need to enrol your expatriate employee in an MPF scheme within 60

days from the end of the 13-month period.

*Q.6 My expatriate employee is a member of an overseas retirement scheme. Does that scheme have to be approved or recognized by the MPFA?*

A.6 No. There is no requirement for an overseas scheme to be approved, or recognized by, or registered with the MPFA. As long as the scheme is a scheme registered or domiciled outside Hong Kong and the person concerned meets the exemption conditions specified in the legislation, the person is automatically exempt from the MPFSO.

*Q.7 Is someone who is given permission to work in Hong Kong through a dependent visa, eligible for the exemption applicable to expatriates?*

A.7 Only expatriates who are given permission to work in Hong Kong by an employment visa are entitled to the exemption applicable to expatriates. Accordingly, a person with a dependent visa is not exempt from the provisions of the MPFSO even though the original period of stay is shorter than 13 months or the person is covered by an overseas retirement scheme.

*Q.8 I operate a ship management company and employ a number of seamen to work on board ocean-going vessels. Do I need to enrol these seamen in an MPF scheme?*

A.8 No. Any person who is serving under a crew agreement within the meaning of the Merchant Shipping (Seafarers) Ordinance or who is serving on board a ship not registered in Hong Kong, is exempt from the MPFSO.

*Q.9 I am a hawker and have a few employees working for me. Am I covered by the MPF System?*

A.9 Hawkers are exempt from the MPF System. If you are a hawker and hire employees, then you are considered to be an employer. You must, in your capacity as an employer, enrol your employees in an MPF scheme. If you are a "self-employed hawker" and do not have any other hawkers (employees) under your employment, you are exempt from the MPFSO.

#### By Employees

*Q.10 I am employed in Hong Kong by a local employer, but they have sent me to work on the Mainland. Am I covered by the MPF System during my stay on the Mainland?*

A.10 If your employer's company is registered in Hong Kong, and you and your employer have an employment contract under the jurisdiction of the Hong Kong

Employment Ordinance, your employer is required to enrol you in an MPF scheme regardless of where you work.

*Q.11 I am a part-time employee working for less than 18 hours a week. Am I covered by the MPF System?*

A.11 If you are employed under an employment contract for no less than 60 calendar days, you are covered by the MPF System regardless of the number of hours you work in a week. Your employer is required to enrol you in an MPF scheme.

*Q.12 I am a director of a company. Do I need to join an MPF scheme?*

A.12 If your appointment as a company director is under a contract of employment and you receive remuneration as an employee, then you need to enrol in an MPF scheme. However, if you are a non-executive director who is not involved in the daily operations of the company, you are not required to enrol in an MPF scheme.

*Q.13 Are Directors' fees considered as relevant income?*

A.13 The answer depends on whether the director is an employee of the company. Normally, a director who is involved in the day-to-day operation or management of the company, i.e. an executive director, is considered an employee of the company. Whether there is a written employment contract between the director and the company, and whether the director is receiving a salary from the company, are irrelevant. If an employment relationship is implied by his involvement in the running of the company, the director's fee would be part of his relevant income.

On the other hand, a director who is not involved in the day-to-day operation or management of the company is an office holder of the company only and not an employee. The director's fee received by such a director is his remuneration for holding the office of a director and is not therefore deemed to be relevant income.

## **Enrolment**

### By Employers

*Q.1 Who chooses an MPF scheme?*

A.1 Under the MPFSO, employers are required to enrol all their relevant employees in an MPF scheme. As an employer, you may choose one or more of the available registered MPF schemes for your employees. However, you may wish to consult your employees when selecting an MPF scheme.

*Q.2 Can my employees choose their own MPF scheme and ask me to enrol them in the scheme?*

A.2 As an employer, you have the right to choose the MPF scheme for your employees. However, you may enrol your employees in any MPF scheme they choose themselves.

*Q.3 Can I enrol my employees in different MPF schemes?*

A.3 Yes, but you should not enrol an employee in more than one scheme at a time.

*Q.4 What should I consider when choosing an MPF scheme?*

A.4 Although all MPF schemes have to comply with the provisions of the MPFSO, each MPF scheme has its own governing rules and constituent funds, and each constituent fund has its own investment policy. As an employer, you should be aware of the different options available in the market and consider factors including governing rules of the scheme, investment policies, fees and charges payable under the scheme, etc. You may also consult your employees in selecting an MPF scheme that you and your employees consider most suitable.

*Q.5 Do I need to submit an application to the MPFA for the MPF scheme in which I propose to enrol my employees?*

A.5 If you intend to participate in a master trust scheme or an industry scheme, you do not need to submit any application to the MPFA. You are simply required to follow the relevant enrolment procedures, such as filling in an enrolment form, as required by your scheme trustee. If you intend to set up your own employer sponsored scheme, you should consult a lawyer regarding the establishment of the scheme. You must also appoint an approved trustee for your scheme who will then submit your scheme to the MPFA for approval.

*Q.6 What should I receive after I have enrolled my employees in an MPF scheme?*

A.6 After your application for membership of an MPF scheme is submitted, you will be given a notice of acceptance within 30 days from the date on which you submit all the information required for the application, or from the date on which you agree to observe and accept the governing rules of the scheme, whichever is later.

Your scheme trustee will report your participation in the scheme to the MPFA. Upon receipt of such information, the MPFA will issue a participation certificate to you. If you are an employer, you are required to display the participation certificate at the premises where your employees are employed. If your employees do not perform work at your premises, you should display the certificate at your principal place of business. The displayed certificate may

either be the original certificate or a certified copy issued by the MPFA.

*Q.7 If I have enrolled my employees in different MPF schemes, do I need to display all the participation certificates?*

A.7 Yes. But if you have more than one office and the employees in each of your offices are participating in different MPF schemes, you are only required to display at the relevant office the relevant participation certificates in respect of the schemes your employees working at that office are members of.

*Q.8 If I have more than one office, how should I display the participation certificates?*

A.8 If your employees work at different offices, you should request the MPFA, through your MPF service provider, to issue a sufficient number of certified copies of the certificate for display in all relevant offices. If you are occupying several floors in the same building, you are only required to display one certificate per building.

#### By Employees

*Q.9 If I have more than one employment concurrently, do each of my employers have to enrol me in an MPF scheme?*

A.9 Yes. Each of your employers has to do so as long as you are employed under a contract for 60 days or more.

*Q.10 Can I choose an MPF scheme and request my employer to enrol me in that scheme?*

A.10 Your employer has an obligation to select an MPF scheme for you. You can present your views to your employer but the final decision on which MPF scheme to join, rests with your employer.

*Q.11 If the MPF scheme in which my employer has enrolled me has more than one constituent fund, do I have the right to choose which constituent funds to invest in?*

A.11 Yes. Employees may select the constituent fund or funds in which they wish to invest their accrued benefits.

*Q.12 How do I know whether my employer has enrolled me in an MPF scheme?*

A.12 After your employer has enrolled you in an MPF scheme, the trustee of the scheme is required to provide you with an acceptance notice within 30 days and a membership certificate within 60 days.

In addition, the MPFA will issue a participation certificate to your employer and he is required to display it at the premises where you work.

*Q.13 Is the trustee of my MPF scheme allowed to unilaterally terminate my participation?*

A.13 Under the MPF legislation, the membership of a scheme member may be terminated only in accordance with the governing rules of the scheme and with the written agreement of the scheme member or the participating employer, not earlier than 60 days before the termination. Your scheme trustee, therefore, is not able to terminate your participation in the scheme unilaterally.

*Q.14 What information or documents will I receive from the scheme trustee after I become a scheme member?*

A.14 You will receive from the trustee the following information:

- an acceptance notice;
- a membership certificate stating the name of the scheme, the name and address of the approved trustee of the scheme, your name and the date of the certificate;
- a document containing a general description of the scheme including the fees and charges payable under the scheme, particulars of the constituent funds of the scheme, name and contact details of the person to whom enquiries about contributions and related matters may be made;
- an annual benefit statement containing information about the contributions paid and investment returns for the year concerned; and
- two fund fact sheets for each financial year summarizing key information including particulars and performance of a fund.

#### By Self-employed Persons

*Q.15 Are all self-employed persons required to enrol themselves in MPF schemes?*

A.15 No. Certain self-employed persons are exempt from the MPFSO, such as self-employed hawkers.

*Q.16 What type of scheme should I choose?*

A.16 You are encouraged to compare the different MPF schemes available in the market and consider factors such as investment risk, fees and charges, quality of service, etc., and then select a scheme you consider most suitable.

By both Employers and Self-employed Persons

*Q.17 How do I know whether a scheme is an MPF scheme and whether a trustee is approved by the MPFA?*

A.17 The MPFA keeps registers of all registered MPF schemes and approved trustees. Members of the public are welcome to inspect the registers at the office of the MPFA or on MPFA's website: [www.mpfa.org.hk](http://www.mpfa.org.hk)

*Q.18 What information am I entitled to receive before I participate in an MPF scheme?*

A.18 An approved trustee of an MPF scheme is required to disclose the following information to a person who is considering participation in a scheme:

- \* the information required to apply to join a scheme;
- \* the governing rules of the scheme; and
- \* the scheme details, including all the fees and charges payable under the scheme.

*Q.19 Can my application to enrol in an MPF scheme be rejected?*

A.19 There is a “Non-refusal” provision in the MPFSO. Under that provision, the approved trustee of an MPF scheme cannot refuse an application for membership to a scheme provided that the applicant complies with the requirements, and provides, or is willing to provide, information required by the approved trustee, and agrees in writing to comply with the governing rules of the scheme.

*Q.20 There are many agents in the market selling MPF schemes. How do I know if these people really know the MPF System?*

A.20 Anyone selling MPF schemes, or advising clients on the constituent funds or the underlying approved pooled investment funds of MPF schemes, must be registered as an MPF intermediary. MPF intermediaries are required to pass an examination and to apply for registration, before they are issued with intermediary certificates. The certificates indicate whether the intermediary is permitted to sell MPF schemes without rendering specific investment advice, or whether he is permitted to advise on securities and/or insurance policies. In the initial contact with clients, an intermediary should identify himself by showing his business card bearing his MPF registration number and should explain to clients what type of advice/service he can give in accordance with the conditions prescribed on the MPF certificate.

## Contributions

### By Employers

*Q.1 The monthly income that I pay my employee fluctuates. Does that mean the mandatory contributions for my employee also fluctuate?*

A.1 Yes. Mandatory contributions to be paid to an employee for a particular contribution period are based on the relevant income of your employee in that period. If the income of your employee in different contribution periods fluctuates, then the mandatory contributions will fluctuate correspondingly.

Under the MPFSO, it is the employer's responsibility to ensure the calculations of the relevant income and contributions of an employee are accurate.

*Q.2 What is "contribution period" and how should I make contributions for each contribution period?*

A.2 "Contribution period" refers to each period for which the employer pays relevant income to the employee. Under the MPFSO, an employer is required to make mandatory contributions in respect of an employee by the "contribution day". This is the 10<sup>th</sup> calendar day after the last day of a calendar month within which the relevant contribution period ends. If the contribution period of an employee is from the first day of a month to the last day of the same month, then you must pay the mandatory contributions to the scheme trustee not later than the 10th calendar day after the end of the month. (Note: The contribution day is not affected by the "pay day", i.e. whether the employer pays the employee at, before or after the end of the month.)

*Q.3 I provide some non-monetary benefits, such as air tickets, to my employees. Do such benefits form part of the "relevant income" of my employees?*

A.3 No. Non-monetary benefits are not regarded as "relevant income".

*Q.4 I am required to provide an accompanying remittance statement when I pay mandatory contributions to my scheme trustee. What should be included in the remittance statement? Do I need to submit the remittance statement to the MPFA for approval?*

A.4 The remittance statement should include the following information in respect of each employee:

- amount of relevant income for the contribution period concerned;
- amount of employer's portion of mandatory contribution paid for that contribution period;
- amount of employee's portion of mandatory contribution paid for that contribution period;
- amount of employer's voluntary contribution paid, if any; and
- amount of employee's voluntary contribution paid, if any.

You are not required to submit the remittance statement to the MPFA for approval.

*Q.5 Should I inform my employees of the amount of mandatory contributions made on their behalf?*

A.5 As an employer, you are required to provide monthly pay-records to each of your employees within seven working days after the mandatory contributions are made. Information in the pay-record should include the employee's relevant income, the amount of contributions made and the date the contributions were paid to the scheme trustee.

*Q.6 What happens if I delay or am unable to settle the payment of mandatory contributions for my employees?*

A.6 An employer who fails to make mandatory contributions for the previous month by the contribution day (i.e. the 10th day of a month) commits an offence. Apart from paying surcharge, you may also be subject to a financial penalty of HK\$5,000 or 10% of the amount of default contributions (whichever is greater). Defaulting employers may also be prosecuted. An offender is liable to a maximum penalty of imprisonment for 3 years and a fine of HK\$350,000.

*Q.7 The law only requires me to pay a mandatory contribution of 5% of my employee's income. Can I make extra contributions for my employees?*

A.7 Yes. You are free to make voluntary contributions for your employees. Normally your MPF scheme will have governing rules providing for the payment, vesting and withdrawal of benefits accrued from voluntary contributions paid for your employees' benefit.

## By Employees

*Q.8 What does the scheme trustee do when they receive mandatory contributions from my employer?*

A.8 Your contributions will be invested in accordance with the investment portfolio selected by you. Your contributions and accrued benefits will be kept by the custodian and the trustee, and will be preserved in the scheme until you are entitled to withdraw the accrued benefits or transfer the benefits to another scheme.

*Q.9 Who decides on the choice of investment funds in an MPF scheme?*

A.9 If more than one constituent fund is offered by the MPF scheme, you may choose one or more of the funds in which to invest your contributions. Your scheme trustee is required to provide particulars of the funds within 60 days after your enrolment, such as their policy regarding the kinds of securities and other assets in which the individual constituent fund may invest, the investment managers involved, and so on.

You can make your own choice according to your investment objectives, personal circumstances and future plans. For example, a scheme member approaching retirement age may choose a lower risk investment product, while a younger member may choose to invest in a product with higher risks, but which may result in better investment returns.

*Q.10 Can my employer withhold my accrued benefits arising from the employer's portion of the mandatory contributions if I am dismissed due to misconduct, fraud or dishonesty?*

A.10 No. Your employer's mandatory contributions are vested fully as your accrued benefits in the scheme, once they are paid to your scheme trustee. Your employer cannot withhold your benefits accrued from mandatory contributions, except for the express purpose of offsetting severance or long service payments that might be owed to you. However, for voluntary contributions paid by your employer, forfeiture of benefits accrued from such contributions are subject to the governing rules of your scheme.

*Q.11 What happens to my accrued benefits if my employer's business is wound up?*

A.11 Mandatory contributions paid to the MPF schemes are vested fully in the scheme members and kept by the custodian. Therefore, the accrued benefits in your MPF scheme would not be affected by the closure of your employer's business.

*Q.12 What will the MPFA do if my employer does not make contributions for me?*

A.12 If your employer does not pay the required mandatory contributions for you, your MPF trustee should report the situation to the MPFA. On receiving the trustee's report, the MPFA may impose a contribution surcharge on the employer and instigate civil action to recover the outstanding contributions and surcharges. The contribution surcharge will be fully due to you. You are also encouraged to lodge a formal complaint with the MPFA so that immediate follow up action can be taken to protect your benefits. All complaints are treated in the strictest confidence.

### By Self-employed Persons

*Q.13 How much do I need to contribute?*

A.13 A self-employed person is required to contribute 5% of his relevant income as the mandatory contribution. The relevant income is subject to maximum (HK\$20,000 a month or HK\$240,000 a year) and minimum (HK\$5,000 a month or HK\$60,000 a year) income levels. If you earn less than HK\$5,000 a month or HK\$60,000 a year, you are not required to contribute. Self-employed persons may also elect to make voluntary contributions on top of their mandatory contributions.

*Q.14 When should I pay the mandatory contribution?*

A.14 You may choose to contribute on a monthly or annual basis. If you choose to contribute on an annual basis, you should pay your mandatory contribution to your scheme trustee by the end of each financial year of the scheme. If you choose to contribute monthly, you should specify to your scheme trustee a date every month as your contribution day and make your monthly mandatory contributions by that date each month. You should inform your scheme trustee whether you want to contribute on a monthly or annual basis when you first enrol in an MPF scheme. For the next financial year of the scheme, you should inform your scheme trustee of your choice (monthly or annually) at least 30 days before the end of each financial year of the scheme.

*Q.15 What is "relevant income"?*

A.15 The relevant income of a self-employed person is linked to his assessable profits calculated in accordance with the Inland Revenue Ordinance. A self-employed person electing to contribute on a monthly basis should divide the assessable profits by the number of whole months in the financial period and make mandatory contributions equivalent to 5% of his relevant income.

*Q.16 If I am a partner of a partnership, how should I calculate my relevant income?*

A.16 Your relevant income for the financial year of the scheme should be calculated by making proportional adjustments, according to your share of the partnership, to the profits of your partnership business for that period.

*Q.17 What if I have more than one business?*

A.17 If you have more than one business, your relevant income is an amount equal to the aggregate of your income (including profits and losses) derived from all of those businesses for that period. 5% of that aggregate amount will then be the mandatory contribution which should be paid into the scheme.

*Q.18 What if I am both a self-employed person and an employee concurrently?*

A.18 You have to be enrolled in two MPF schemes. As a self-employed person, you have to enrol yourself in an MPF scheme. As an employee, your employer is required to enrol you in an MPF scheme and make mandatory contributions, when you have been employed under an employment contract for 60 days or more.

*Q.19 What should I do if I cease to be self-employed during a scheme's financial year?*

A.19 Your contribution should be calculated based on the mandatory contributions that would be payable for the whole contribution period and adjusted by the number of days that you remain as a self-employed person during the period. You should also notify your scheme trustee of the change of self-employment status before the next contribution period.

#### By both Employees and Self-employed Persons

*Q.20 Can I change my mind later, after I have selected my initial investment portfolio?*

A.20 Your scheme trustee is required by law to provide you with a choice to switch your investment portfolio at least once a year. Whether you can switch investments more than once during a year is subject to the governing rules of your scheme.

*Q.21 How do I know if the investment managers of my MPF scheme have properly invested my mandatory contributions?*

A.21 Investment managers must be properly licensed by and registered with the Securities and Futures Commission. Trustees of MPF schemes are required to closely monitor their appointed investment managers. In addition, scheme trustees have to file regular returns to the MPFA and the MPFA also conducts site

inspections to ensure that trustees and investment managers comply with the requirements of the MPFSO. It is advisable that you, as a scheme member, check through your annual benefit statements to ensure that contributions are invested in the funds you have chosen.

*Q.22 How do I know how much I have accrued in my scheme?*

A.22 Your scheme trustee is required to provide you with an annual benefit statement within three months from the end of each scheme's financial year. The statement will show the opening balance of your accrued benefits, inflows and outflows including contributions, transfer and transactions, the extent to which they are vested, the gains and losses associated with the accounts over the relevant financial period and the closing balance of your accrued benefits as at the scheme's year end. Most trustees also provide additional communication channels (e.g. internet and telephone hotline) for members to check their accounts.

*A.23 Can I pay contributions in excess of the mandatory contribution?*

A.23 Yes. Such contributions made by you are called voluntary contributions and are subject to the governing rules of your scheme.

*Q.24 What measures are there in the MPF System to safeguard my accrued benefits?*

A.24 All MPF schemes are governed by the laws of Hong Kong. To ensure scheme members' interests are adequately protected, a three-pronged approach is adopted:

### **Stringent approval and registration criteria**

To be qualified for registration, MPF schemes must meet certain prescribed standards. In addition, only companies and individuals having satisfied the stringent criteria on capital adequacy, financial soundness, fitness and properness, etc. will be approved as MPF trustees to manage registered schemes.

### **On-going monitoring**

Scheme assets are kept under the custody of qualified custodians. Scheme trustees have to submit returns, financial statements and internal control reports regularly to the MPFA. The MPFA also conducts on-site inspections, special audits and investigations, and can impose sanctions on trustees who have breached the relevant requirements.

### **Safety net**

To provide additional security and protection to scheme members, there is a "safety net" mechanism built into the MPF System. Scheme trustees have to take out adequate insurance to indemnify scheme members against losses resulting

from any breach of trust or illegal conduct by MPF trustees and persons concerned with the administration of scheme assets. As a last resort, scheme members suffering from losses caused by misfeasance or illegal conduct may lodge a claim for compensation from the MPF Schemes Compensation Fund.

## **Portability**

### By Employers

*Q.1 If I am not satisfied with the performance of the MPF scheme in which I have enrolled my employees, can I change the scheme? What should I do?*

A.1 Yes. You have the right to switch to another MPF scheme and transfer the accrued benefits of your employees into that scheme. To start the transfer process, you should apply in writing to the trustee of the new scheme. Upon receipt of your application, the new trustee will arrange with the existing trustee to complete the transfer.

*Q.2 What should I do if my employee ceases employment?*

A.2 Within 10 days after the last day of the calendar month in which the employee ceases employment, you must send a written notice to your MPF scheme trustee stating the date on which the employment ceased. You may also inform the trustee of the employee's cessation of employment in the remittance statement. The employee's accrued benefits will be retained in the scheme until the employee elects for a transfer.

### By Employees

*Q.3 How do I transfer my accrued benefits from one scheme to another?*

A.3 You should fill in the "Scheme Member's Request for Fund Transfer Form" (Form MPF(S)-P(M)) and then submit it to your new scheme trustee or your new employer. The form can be obtained from your trustee or downloaded from the MPFA's website: [www.mpfa.org.hk](http://www.mpfa.org.hk).

### By Self-employed Persons

*Q.4 What should I do with my accrued benefits when I cease to be self-employed?*

A.4 If you become an employee, you may elect to retain your accrued benefits in your existing scheme or transfer your accrued benefits to the scheme in which your new employer is participating. Before the transfer takes place, you need to fill in an election form and submit it to your new employer or his trustee.

## By both Employees & Self-employed Persons

*Q.5 Will there be any charge for the transfer of my accrued benefits?*

A.5 As the transfer of accrued benefits involves the redemption and acquisition of fund units, there may be a spread on the bid-offer prices. Other than this, trustees are generally not allowed to charge any fees and/or impose any financial penalties for the transfer of accrued benefits.

*Q.6 How do I know if my accrued benefits have been properly transferred?*

A.6 Your previous scheme trustee is required to ensure that your accrued benefits are properly transferred within 30 days after receiving your transfer request. They will issue a transfer statement to you detailing the particulars of the transfer. The trustee of your new scheme will also send you confirmation stating the amount received from your previous scheme. Even if you retain your benefits in the existing scheme under a preserved account, you will need to check the information in the relevant documents issued by the trustees upon the transfer.

## **Withdrawal of Benefits**

### By both Employees and Self-employed Persons

*Q.1 Can I withdraw my accrued benefits in an MPF scheme if I am in need of money?*

A.1 As a scheme member, you are not allowed to withdraw your accrued benefits until you reach the age of 65. Early withdrawal is only be allowed in specific circumstances such as death, total incapacity, early retirement (from the age of 60 onwards), small account balance (total accrued benefits not exceeding HK\$5,000), or permanent departure from Hong Kong.

*Q.2 How do I handle my accrued benefits when changing jobs?*

A.2 If you change your job, you may handle the MPF accrued benefits in your accounts in one of three ways:

- a. transfer your MPF accrued benefits to the **contribution account** under your new employer's MPF scheme ; or
- b. transfer your MPF accrued benefits to and invest through a **preserved account** of an MPF scheme of your own choice; or
- c. retain your MPF accrued benefits in and continue to invest through the previous scheme under a **preserved account**.

- Q.3 Should I consolidate my MPF preserved accounts if I think I have too many?*
- A.3 If you have multiple preserved accounts, you may wish to consolidate them for easier management.
- Nevertheless, you will need to take into account a number of factors when consolidating your preserved accounts. For example, you should take note of the timing because transfer to consolidation involves redemption of funds in which the bid-offer spread may cause a loss. Also, you will have to take into consideration whether the trustee, MPF scheme, and investment portfolio that you choose fits your personal situation.
- Q.4 How do I withdraw my accrued benefits?*
- A.4 If you have reached the age of 65, you may present your Hong Kong identity card (or a copy) and a completed Claim Form for Payment of Accrued Benefits to your scheme trustee and request withdrawal of your accrued benefits.
- Q.5 If I withdraw my accrued benefits at the age of 62 because of early retirement, am I allowed to enter the workforce again?*
- A.5 A scheme member aged 60 to below 65 who has retired and who wishes to withdraw his accrued benefits must statutorily declare that he has permanently ceased employment. If you have withdrawn your accrued benefits because of early retirement and wish to re-join the workforce, you will have to be enrolled in an MPF scheme again.
- Q.6 If I withdraw my accrued benefits at the age of 55 due to total incapacity, can I re-enter the workforce by engaging in a different type of employment?*
- A.6 Yes. But you will have to participate in an MPF scheme again.
- Q.7 If I withdraw my accrued benefits because I am leaving Hong Kong permanently, can I come back to work in Hong Kong again in the future?*
- A.7 Yes. But you will have to participate in an MPF scheme again. You may also want to note that the withdrawal of accrued benefits for this reason can only be made once in your lifetime.
- Q.8 If I forget how many MPF accounts I have, what can I do?*
- A.8 You can visit the MPFA office or download the request form from the MPFA's website ([www.mpfa.org.hk](http://www.mpfa.org.hk)) to check how many preserved accounts you have. The MPFA keeps a centralized database of members' preserved accounts, containing information on the number of preserved accounts under a member's

name and the relevant MPF scheme(s). However, account details, such as account number, funds invested and account balance, are not available.

## **Offsetting of Severance and Long Service Payments (SP/LSP)**

### By Employers

*Q.1 What should I do if I need to pay SP/LSP to my employee?*

A.1 An employer is bound by the Employment Ordinance to pay SP/LSP to an employee where applicable. After paying the SP/LSP, you can apply to your scheme trustee to withdraw the relevant amount from the accrued benefits derived from your mandatory contributions (and voluntary contributions if any) to offset the SP/LSP.

### By Employees

*Q.2 Can my employer take the accrued benefits out from my MPF account to offset the SP/LSP I receive?*

A.2 Yes. If your employer has paid you severance payments or long service payments in accordance with the Employment Ordinance, he may apply to the trustee to withdraw benefits accrued to you from his (the employer's) contribution to offset the severance payment or long service payment.

If your accrued benefits attributable to the employer's contributions (taking into account any profit or loss arising from the investments) exceed the amount of SP/LSP, the remaining balance must be retained in your account. On the other hand, if the accrued benefits attributable to the employer's contributions cannot fully offset the SP/LSP, the employer is required to settle the remaining SP/LSP from his own funds.

## **MPF and ORSO Interface**

### By Employers

*Q.1 If I plan to change my ORSO registered scheme's benefit from defined benefit to defined contribution, will this change affect the status of MPF exemption?*

A.1 No. A change of benefit type, will not affect the MPF exemption status of a scheme.

*Q.2 I am an employer of an international firm. Some of my expatriate staff work in*

*Hong Kong only for a short period of time. Currently these staff are members of an ORSO exempt scheme. Are these expatriates exempt from the MPF legislation?*

- A.2 Under the MPFSO, a person entering Hong Kong for the purpose of being employed or self-employed (a) for a limited period only with a work permit which does not exceed 13 months or (b) who is a work permit holder and a member of a retirement scheme of a place outside Hong Kong is generally exempt from the MPFSO.

#### By Employees

*Q.3 As an employee, once I have elected to participate in an existing ORSO scheme, can I later opt out of the ORSO scheme and join an MPF scheme?*

- A.3 Under the Exemption Regulation, employers are required to give a one-off option for employees to choose which scheme to join. If the employer later decides to reduce any member's future benefits level, he is required to provide the option to this member to choose between the ORSO and MPF schemes again.

*Q.4 As an employee, once I have elected to join an MPF scheme, can I later opt out of the MPF scheme and join an ORSO scheme?*

- A.4 No. The policy intention is that you are not allowed to opt out of an MPF scheme during employment. When you change employment, if your new employer operates an MPF exempt ORSO scheme and allows new employees to join, you can then choose between the ORSO scheme and the MPF scheme offered by your new employer.

#### **Industry Schemes**

##### By Employers

*Q.1 I am the owner of a construction company. Some of my employees are construction workers who are employed on a short-term basis whilst the rest are permanent clerical and managerial staff. May I enrol all my employees in an industry scheme?*

- A.1 Yes. An employer who is primarily engaged in any of the construction works specified by the MPFA may choose to enrol all his employees, including the clerical and managerial staff, in an industry scheme.

The major categories classified under the construction industry are:

1. Foundation and associated works;
2. Civil engineering and associated works;

3. Demolition and structural alteration works;
4. Refurbishment and maintenance works;
5. General building construction works;
6. Fire services, mechanical, electrical and associated works;
7. Gas, plumbing, drainage and associated works; and
8. Interior fitting out works.

Alternatively, you may choose to enrol the construction workers in an industry scheme and the other employees in other MPF schemes. You can also choose to enrol all employees in a non-industry scheme.

*Q.2 I run a property management company and employ some staff to do maintenance and repair work. Can I enrol these employees in an industry scheme?*

A.2 A property management company itself does not fall under the definition of construction industry services, as specified by the MPFA.

However, employees of the company engaged in maintenance and repair work may be included in the definition of construction industry as indicated in Q.1 above. These employees may therefore be enrolled in an industry scheme.

*Q.3 I am the employer of a holding company which owns a number of subsidiary companies. One of the subsidiary companies is engaged in the catering business and the rest are engaged in other industries. Can I enrol the employees in all the subsidiary companies in an industry scheme?*

A.3 No. You can only enrol those employees who work for the catering establishment(s) in an industry scheme.

For the purpose of the industry schemes, the catering industry covers holders of food business licences or permits under the Food Business Regulation (Cap. 132, Subsidiary Legislation), canteens at schools and workplace and catering establishments inside clubs. The following are examples of catering establishments:

1. Food factories, milk factories, frozen confection factories & bakeries;
2. Restaurants;
3. Factory canteens;
4. Siu mei or lo mei shops;
5. Cold stores;
6. Fresh provision Shops;
7. Cooked food stalls operating in a public market;
8. Cooked food stalls which are granted hawker licences; and
9. Chinese herb tea shops.

*Q.4 My company is in the catering business. Am I required by law to participate in*

*an industry scheme?*

A.4 No. Participation in industry schemes is voluntary. An employer who is engaged in the construction/catering industry may choose to enrol his employees in an industry scheme or other types of MPF schemes.

It would be more cost-effective, however, for employers in these two industries to enrol their employees in an industry scheme as industry schemes are specially designed for the unique nature of these industries.

Q.5 *I have enrolled all my employees (some of them are casual employees whilst the rest are permanent staff) in an industry scheme. Is the scale of contributions applicable to non-casual employees as well?*

A.5 No. The scale of contributions is applicable to casual employees who are members of the industry schemes only. The contributions to be made in respect of a member of an industry scheme who is not a casual employee is calculated in accordance with the rate of 5% each from the employer and the employee as if the employee is enrolled in a master trust scheme.

Q.6 *If I have enrolled a casual employee in an industry scheme, do I need to inform the scheme trustee when I cease to employ him?*

A.6 No. In the event of cessation of employment of a casual employee who is a member of an industry scheme, the employer is not required to notify the trustee. If the casual employee ceases to be engaged in the catering/construction industry, he may terminate the account in the industry scheme and elect to have the accrued benefits transferred to a new scheme.

Q.7 *What exemptions do I have if I enrol my casual employees in an industry scheme?*

A.7 For casual employees whose contributions are made on the next working day (other than Saturday) immediately after the relevant income is paid, their employers are exempt from the following:

1. Provision of remittance statements to the trustee; and
2. provision of monthly pay records to the casual employees.

In addition, employers are not required to keep payment records and distribute scheme information and documents to casual employees.

## By Employees

*Q.8 I am a casual employee. When should my employer enrol me in an MPF scheme?*

A.8 Your employer must enrol you in an MPF scheme within 10 days from the commencement of your employment but before the first contribution is due. If you are paid daily, chances are your first contribution will fall due on the next working day (other than Saturday) immediately after the first day of your employment and therefore your employer will have to enrol you in an MPF scheme upon the commencement of your employment.

You are encouraged to enrol in advance in the two industry schemes. Trustees will provide you with a membership card after enrolment. This arrangement is a one-time process and will facilitate your future employers to make MPF contributions to your accounts. Since different employers may participate in different industry schemes, you are advised to enrol yourself in both industry schemes operated by the two selected trustees.

*Q.9 I understand that for convenience sake, there is a scale of contributions for casual employees. Under what circumstances should casual employees, use the table as against the 5%/5% employer/employee contribution rate?*

A.9 The scale of contributions designed for employees who are paid on a daily basis is as follows:

Daily Income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$	Total Contribution HK\$
Below 160	7.5	No contribution Required	7.5
160 – below 260	7.5	7.5	15
260 – below 390	15	15	30
390 – below 520	22.5	22.5	45
520 – not more than 650	30	30	60
Over 650	30	30	60

*The above contribution scale does not apply to master trust schemes.*

For casual employees who are not paid on a daily basis (e.g. on a weekly or bi-weekly basis), both the employee and the employer are required to contribute 5% of the employee's income:

Average daily income HK\$	Employer's Contribution HK\$	Employee's Contribution HK\$
Below 160	5% of employee's relevant income	No contribution required
160 - 650	5% of employee's relevant income	5% of employee's relevant income
Over 650	32.5 per day	32.5 per day

*Q.10 I am a waiter employed on casual basis and have already joined an industry scheme. When I change jobs within the catering industry, do I need to switch to another scheme?*

**A.10** If both your new employer and your former employer participate in the same industry scheme, you need not switch. You may use the existing account for contribution purposes.

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## APPENDIX XI

### GLOSSARY

**60-day employment rule** This does not apply to a casual employee in the construction and catering industries. For any other full-time or part-time employee who has been employed for 60 days or more under an employment contract, coverage under the MPF system applies. **3.4(b)(i)**

**Accrued benefits** The member's beneficial interest in an MPF scheme at any time. The amount is derived from contributions made by or on behalf of the member, together with any accumulated income or profits from any investments thereof (adjusted for any sustained losses). **1.2.2(a)**

**Annual benefit statement (ABS)** General Regulation requires trustees to provide scheme members with ABS. The ABS serves to confirm scheme membership and membership details, the status and the number of accounts held by the member, to check inflows and outflows including contributions, transfer and transactions, and to identify account balances and accruals, the extent to which they are vested, and the gains and losses associated with the accounts over the relevant financial period. The ABS is a historical record of the member's account at a point in time.

New content requirements of the ABS are set out in Part F of the Disclosure Code. ABS issued in respect of financial periods ending after 1 September 2009 will need to comply with the new content requirements. **5.9(e)**

**Approved Pooled Investment Fund (APIF)** An investment fund approved by the MPFA in accordance with the requirements set out in the General Regulation and the Code on MPF Investment Funds. An APIF may be in the form of an insurance policy or a unit trust, either of which has to be authorized by the SFC. Theoretically, it could also be in the form of an authorized mutual fund, but this is not practical under current Hong Kong law. **5.4**

**Balanced fund** (See **Mixed assets fund**) **5.3.2(c)(iii)**

**Bond fund** A bond fund is a pool of money primarily invested in bonds which are debt instruments issued by governments, public utilities, corporations, banks etc. Generally a bond fund aims to achieve a level of stable income, with capital appreciation being a secondary consideration. The higher the credit ratings of the bonds held by the fund, the lower the risk of the fund. **5.3.2(c)(ii)**

**Casual employee** Under the MPF legislation, a casual employee is a person employed in the selected industries (currently catering and construction) on a day-to-day basis or for a fixed period of less than 60 days. Such an employee is covered by the MPF system. **3.4(b)(ii)**

**Compensation fund** A fund intended to compensate members of MPF schemes (and others with a beneficial interest in those schemes) for loss of accrued benefits attributable to misfeasance or illegal conduct of trustees or other persons administering those schemes. The fund consists of "seed money" injected by the government and levies collected by the

MPFA from trustees.

**3.1.3**

**Constituent fund** An investment fund offered by an MPF scheme into which a scheme member invests his contributions and accrued benefits. All constituent funds must be approved by the MPFA. **5.3**

**Contribution day – Casual employee** Depending on what is agreed by the participating employer and the approved trustee of the scheme concerned, the contribution day could be (i) the next working day (other than Saturday) immediately after the relevant income is paid to the casual employee; or (ii) the 10<sup>th</sup> day after the last day of the relevant contribution period. **3.7.1(a)(vi)**

**Contribution day – (Non-casual) employee** The 10<sup>th</sup> day after the last day of a calendar month within which the relevant contribution period ends, or the month during which the permitted period ends, whichever is the later. **3.7.1(a)(vi)**

**Contribution period – Casual employee** A contribution period means each period for which the employer pays or should pay relevant income to the employee. **3.7.1(a)(v)**

**Contribution period – (Non-casual) employee** Where the wage period is not more than 1 month (e.g. weekly or monthly), a contribution period means each period for which the employer pays or should pay relevant income to the employee, but does not include any wage period commencing on or before the 30th day of employment. Where the wage period is more than 1 month (e.g. quarterly), a contribution period means each period for which the employer pays or should pay relevant income to the employee, but does not include the period commencing from the date of employment and ending on the last day of the calendar month in which the 30th day of employment falls. **3.7.1(a)(v)**

**Contribution period - Employer** A contribution period means each period for which the employer pays or should pay relevant income to the employee. **3.7.1(a)(v)**

**Corporate intermediary** (see **MPF corporate intermediary**) **7.1(c)(i)**

**Defined benefit scheme (DBS)** A scheme where the employer's contribution rates are not defined and the benefit to a member is generally based on a formula involving a number of factors, e.g. the member's age, years of service and final average salary. **6.1.1(b)**

**Defined contribution scheme (DCS)** A scheme where both the employer's and employees' contribution rates are defined and the accrued benefits are based upon the accumulated contributions and investment income. **6.1.1(a)**

**Early retirement** One of the permitted grounds for early withdrawal of accrued benefits. The person concerned must have reached the age of 60 and must make a statutory declaration that he has permanently ceased employment. **3.11(a)**

**Employee** Any full-time and part-time employee who is employed under an employment contract for a continuous period of not less than 60 days. **3.4(b)(i)**

**Employer** Any person who has entered into a contract of employment to employ another person as his employee. **3.6.1**

**Employer sponsored scheme** A registered scheme where membership is only open to the relevant employees of a single employer and its associated companies. **3.3(a)**

**Employment contract** An employment contract is an agreement on the employment conditions made between an employer and an employee. The agreement can be made orally or in writing and it includes both express and implied terms. **3.4(b)(i)**

**Equity fund** A pool of money primarily invested in equities or shares of companies. Some of such funds are characterized by the countries they invest in, and some by the type of stocks invested in e.g. blue chips. Intended to achieve a high rate of return through capital appreciation, equity funds may prove volatile, especially over a short period of time, but diversification across a number of markets will lower the risk level of the fund. **5.3.2(c)(iv)**

**Exempt person** An employed person such as a domestic employee, a self-employed hawker etc who is not required to join an MPF scheme. The employer of such a person is also exempt as far as such employment is concerned. **3.5**

**Existing member** An employee who has become a member of the ORSO scheme on or before the commencement date of the MPF. **6.4**

**Guaranteed fund** In the context of the MPF scheme, a guaranteed fund promises the fund holders that they will get back either the net total amount of MPF contributions (capital guarantee) or a specified rate of return on investment (return guarantee). The guarantee may be provided without any qualifying conditions, or when the fund holder meets certain qualifying conditions. A further classification of such funds describes a guaranteed fund as non-investment-linked, partially investment-linked or fully investment-linked. The guarantee mechanism must be clearly stated in the marketing documents of such funds. **5.3.2(b)**

**Guaranteed fund – Fully investment-linked** The unit price floats according to the net asset value of the underlying investments of the fund. Usually, only a soft guarantee is provided. Such a fund will invest similarly as a non-guaranteed fund. **5.3.2(b)**

**Guaranteed fund – Hard guarantee** A minimum net return is guaranteed, without imposing any qualifying conditions. **5.3.2(b)**

**Guaranteed fund – Non-investment-linked** The unit price does not reflect the net asset value of the fund. The guaranteed amount is generally payable, but there may not be any benefit from earnings above the guaranteed amount. The guaranteed minimum rate is likely to be low and the investment policy for such funds is likely to be more conservative. **5.3.2(b)**

**Guaranteed fund – Partially investment-linked** A variation of the fully investment-linked guaranteed fund where the unit price floats according to the net asset value of the fund, with possible adjustments. The guarantee amount is usually payable upon certain conditions or events. **5.3.2(b)**

**Guaranteed fund – Soft guarantee** A minimum return is promised subject to certain qualifying conditions. The minimum return is usually applied to the average rate compounded over the period of employment for which the fund has been held. In such a case the guarantee is said to be based on a “career average”. **5.3.2(b)**

**Index-tracking fund** An index-tracking fund is a collective investment scheme which has the sole investment objective of tracking a particular market index. **5.3.2(c)(v)**

**Individual intermediary** (see **MPF individual intermediary**) **7.1(c)(ii)**

**Industry scheme** A registered scheme designed especially for industries with high labour mobility and daily wage practice, at present for catering and construction industries only. **3.3(c)**

**Mandatory contributions** Compulsory contributions of both the employee and employer, as per the current provisions of the MPF system. At present, other than for a casual employee who is a member of an industry scheme (for whom special provisions apply), mandatory contributions amount to 10% of the employee’s relevant income, with the employee and employer each paying 5%. The contributions are subject to minimum and maximum criteria (see minimum relevant income and maximum relevant income). **3.7.1**

**Mandatory Provident Fund intermediary certificate (MPF certificate)** Proof of qualification for corporate and individual intermediaries, upon registration with the MPFA. The MPF certificate of an individual intermediary provides the name of the individual, the corporation he acts on behalf of, his registration number, date of registration and expiry date of his registration. It also indicates whether he is permitted to advise on securities, insurance policies or both, or permitted to sell MPF schemes without rendering specific investment advice. **7.3(d)**

**Master trust scheme** A registered scheme where membership is open to the relevant employees of different employers, self-employed persons and preserved account holders. **3.3(b)**

**Maximum relevant income – Casual employee** The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a casual employee who is a member of an industry scheme, \$650 per day. **3.7.1(a)(i)**

**Maximum relevant income – (Non-casual) employee** The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a non-casual employee, \$20,000 per month or, if the employee is not remunerated on a monthly basis, that amount as prorated. **3.7.1(a)(xi)**

**Maximum relevant income – Self-employed person** The maximum level of relevant income for the purpose of mandatory contributions is, in the case of a self-employed person, \$20,000 per month or \$240,000 per year. **3.7.1(b)(vi)**

**Membership certificate** It is the duty of the scheme trustee to ensure that an employee is issued with a membership certificate. This must be done within 60 days of the employee becoming a scheme member. **3.6.3(c)**

**Minimum MPF benefits** A new member of an exempted ORSO registered scheme is subject to the “minimum MPF benefits” rule, whereby certain MPF requirements (e.g. preservation and portability) will apply up to the minimum sum. The “minimum MPF benefits” is defined as the lesser of (a) the member’s benefits accrued under the scheme during the period when the exemption certificate applied to the scheme; or (b) 1.2 x final average monthly relevant income (capped at \$20,000) x years of post-MPF service. **6.5.2**

**Minimum relevant income – Casual employee** The minimum level of relevant income for the purpose of mandatory contributions is, in the case of a casual employee who is a member of an industry scheme, \$160 per day. **3.7.1(a)(i)**

**Minimum relevant income – (Non-casual) employee** The minimum level of relevant income for the purpose of mandatory contributions is, in the case of a non-casual employee, \$5,000 per month or, if the employee is not remunerated on a monthly basis, that amount as prorated. **3.7.1(a)(x)**

**Minimum relevant income – Self-employed person** The minimum level of relevant income for the purpose of mandatory contributions is, in the case of a self-employed person, \$5,000 per month or \$60,000 per year. **3.7.1(b)(vi)**

**Mixed assets fund** (also known as balanced fund) An investment mix of bonds and equities (shares). The risk level for this type of fund is usually somewhere between those of a bond fund and an equity fund. **5.3.2(c)(iii)**

**Monthly pay-record** Each employee (other than a casual employee in an industry scheme whose contribution is made on the next working day (other than Saturday) immediately after the relevant income is paid) must be provided with a monthly pay record by the employer. This must be within 7 working days after the last contribution payment during the month and is to include the employee’s relevant income, the amount of mandatory and voluntary contributions deducted and the date on which contributions were paid to the trustee. **3.7.1(a)(ix)**

**MPF corporate intermediary / corporate intermediary** A sole proprietorship, partnership or limited company responsible for the supervision of the selling or advising activities of MPF schemes. The term includes a promoter appointing or employing MPF individual intermediaries to sell or advise on MPF schemes promoted by the promoter. **7.1(c)(i)**

**MPF Conservative fund** The fund name has been changed from capital preservation fund to MPF conservative fund. It is a statutory requirement that at least one of the constituent funds of an MPF scheme must be an MPF conservative fund. As the name suggests, the purpose of such a fund is to minimize the risk to the capital invested therein. Whilst not guaranteed, there are safeguards to achieve this primary objective. The investments of and deduction of fees from the fund is subject to s.37 of the General Regulation. **5.3.2(a)**

**MPF individual intermediary / individual intermediary** An officer, agent or employee who engages in selling MPF schemes or advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes. **7.1(c)(ii)**

**MPF intermediaries examination** An individual applicant must pass an MPF examination recognized by the MPFA, i.e. the Mandatory Provident Fund Schemes Examination conducted by the Vocational Training Council or the MPF Intermediaries Examination conducted by the Hong Kong Securities Institute. **7.3(a)(ii)**

**MPF intermediary** A person who is engaged in selling MPF schemes or advising clients on constituent funds or underlying approved pooled investment funds of MPF schemes. The term does not include a lawyer, a professional accountant or an actuary whose act of giving advice is wholly incidental to the practice of his profession. MPF intermediaries may be “corporate” or “individual”. **7.1**

**MPF intermediary – Fit and proper criteria** The criteria used by the MPFA in assessing whether an applicant/a registrant is fit and proper to be/remain registered as an MPF intermediary. Some factors which are likely to have a negative effect on such considerations include previous fraud or criminal activity, undischarged bankruptcy and professional misconduct or disqualification. **7.3(c)**

**MPF scheme/registered scheme** A provident fund scheme registered as an employer sponsored scheme, a master trust scheme or an industry scheme. **3.3**

**Negative income** A self-employed person who suffers losses will not be required to make mandatory contribution (since relevant income will be less than the specified minimum). Proof of such losses may be lodged with the trustee showing the computation of the net loss, which should cover the latest financial period of the business. **3.7.1(b)(v)**

**Non-refusal of scheme applicants provision** No MPF application may be refused if the person making it complies with all requirements and agrees in writing that he will comply with the governing rules of the scheme. **3.6.3**

**Offering document** A document inviting participation in the registered scheme by prospective participating employers or prospective members of the scheme and containing information relating to the establishment or administration of the scheme. **3.2(c)(ii)**

**ORSO scheme** A scheme regulated by the Occupational Retirement Schemes Ordinance, set up by an employer for his employees, providing employee benefits in the form of pensions, allowances, gratuities or other payments, payable on termination of service, death or retirement. **6**

**Performance guarantee** A requirement upon individual (non-corporate) MPF trustees. It may be in the form of an insurance policy or a bank guarantee, covering losses from the trustee’s failure to perform or other breach of duties. It must be for 10% of the net asset value of the scheme, with a maximum of HK\$10 million. **4.4(c)**

**Permitted period – Casual employee** The period within which an employer must enrol a casual employee in an MPF scheme. The permitted period is 10 days for a casual employee. **3.7.1(a)(iii)**

**Permitted period – (Non-casual) employee** The period within which an employer must enrol a non-casual employee in an MPF scheme. The permitted period is 60 days for a non-casual employee. **3.7.1(a)(iii)**

**Permitted period – Self-employed person** The period within which the self-employed person must become a member of an MPF scheme. The permitted period is 60 days for a self-employed person. **3.7.1(b)(vii)**

**Portability** Under the MPF system, an employer or a self-employed person can change his participation from one MPF scheme to another. An employee can also transfer his accrued benefits from the original MPF scheme to another when he changes jobs. **3.10**

**Preservation** Benefits accrued from mandatory contributions must stay within the MPF system until the scheme member attains the age of 65, although provisions exist for earlier withdrawals under certain specified circumstances. **3.9**

**Professional indemnity insurance** Insurance must be arranged to cover losses that MPF schemes might sustain from certain prescribed risks. This makes the cover wider than the customary professional indemnity insurance, and includes fraud and negligence on the part of the trustee. **3.1.2**

**Relevant income – Employee** Any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance, expressed in monetary terms, paid or payable by an employer (directly or indirectly) to that relevant employee in consideration of his employment under that contract, but does not include severance payments or long service payments under the Employment Ordinance. **3.7.1(a)(ii)**

**Relevant income – Partner** A partner within a partnership is considered a self-employed person, who should calculate his relevant income by making proportional adjustments according to his share of profits for the partnership for that period. **3.7.1(b)(ix)**

**Relevant income – Self-employed person** The calculation of relevant income is basically linked to the assessable profits of the self-employed person that are calculated in accordance with the Inland Revenue Ordinance. **3.7.1(b)(iii)**

**Remittance statement** A statement showing the relevant income and amount of contribution per employee (other than a casual employee in an industry scheme whose contribution is made on the next working day (other than Saturday) immediately after the relevant income is paid). This statement should accompany the payment to the trustee. **3.7.1(a)(viii)**

**Retirement age** In relation to a relevant employee or self-employed person, means 65 years of age or, if the regulations prescribe an earlier age, that earlier age. **3.11**

**Self-employed person** A person (otherwise than in the capacity as an employee) who derives his relevant income from his production (in whole or in part) of goods and services in Hong Kong, or his trade in goods or services in or from Hong Kong. In simple words, any person who works for himself and is not employed as an employee e.g. a sole-proprietor, a partner of a business partnership. **3.4(b)(iii)**

**Service provider** A service provider can be an investment manager, a custodian of MPF scheme assets or any other person appointed or engaged by the scheme trustee to provide services for the purpose of the scheme. This includes any person delegated by such

manager, custodian etc but does not include a person appointed or so engaged as an auditor, solicitor or actuary. **3.2**

**Small balance account** One of the permitted grounds for early withdrawal of accrued benefits. “Small” implies an amount not exceeding HK\$5,000, and withdrawal is subject to certain stipulations (e.g. the member does not intend to be employed or self-employed in the foreseeable future). **3.11(e)**

**“Top-Up”** One of the options available to employers with an existing ORSO scheme. Under this option, the contributions to the existing scheme would become supplementary MPF contributions, over and above MPF requirements, and all employees would be covered under an MPF scheme. **6.4**

**Total incapacity** One of the permitted grounds for early withdrawal of accrued benefits. The total incapacity must be certified by a registered medical practitioner and relates to the kind of work that the scheme member was last performing before becoming totally incapacitated. **3.11(d)**

**Vesting** Vesting means to endow or to give legal rights of possession regarding a particular financial interest. In the context of MPF, this refers to the immediate vesting in the employee of all mandatory contributions (employee’s and employer’s) and voluntary contributions by an employee or a self-employed person. **3.8**

**Voluntary contribution** Non-compulsory contribution over and above mandatory contribution. This is perfectly permissible, indeed encouraged, and where made is subject to MPF legislation applicable to mandatory contribution, except for provisions relating to portability, preservation, vesting and withdrawal. **3.7.2**

**Wage period** A wage period means each period for which the employer pays or should pay relevant income to the employee. **3.7.1(a)(iv)**

**Withdrawal of benefits** Benefits accrued from mandatory contributions have to be preserved until the scheme member attains the retirement age of 65. Earlier withdrawal of benefits is permissible, in a number of specified circumstances, i.e. death, early retirement, permanent departure from Hong Kong, total incapacity and small balance account. Each may be subject to specified requirements or qualifications. **3.11**

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- Self-employed person	<b>3.7.1(b)(iii)</b>	Transferor trustee	<b>3.10.3(a)</b>
Relevant ORSO registered scheme	<b>6.3</b>	Treasury bills	<b>AVIII(a)(i)</b>
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		World Bank Report "Averting the Old-Age Crisis"	<b>1.2.1</b>
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The Hong Kong Confederation of Insurance Brokers	<b>2.2.2(b)</b>		
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Three self-regulatory organizations of insurance industry	<b>7.2(b)(iii)</b>		
"Top-Up"	<b>6.4</b>		
Total incapacity	<b>3.11(d)</b>		
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# *Representative Examination Questions*

## *Correct Answers*

CHAPTER	QUESTIONS				
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1	(a)	(c)	(b)	(a)	-
2	(c)	(a)	(b)	-	-
3	(d)	(d)	(a)	(c)	(c)
4	(a)	(d)	(c)	-	-
5	(a)	(c)	(c)	(c)	(d)
6	(c)	(b)	-	-	-
7	(b)	(a)	(d)	-	-