

# Member Protection

## Protecting Retirement Benefits

MPFA has been vested with powers to enforce the laws regarding the MPF System against individuals, businesses and trustees that violate them with the following objectives:

- To ensure compliance with the Mandatory Provident Fund Schemes Ordinance (MPFSO) and the Occupational Retirement Schemes Ordinance (ORSO);
- To protect the legitimate rights of MPF scheme members; and
- To uphold the integrity and credibility of the MPF System.

## Non-Compliant Employers Under the MPFSO

MPFA's powers enable it to investigate into non-compliance of employers such as failing to pay MPF contributions for their employees or not enrolling employees in an MPF scheme by the prescribed date.

MPFA has provided various means including hotline, website and enquiry counter to make it easy for employees to lodge complaints when they suspect that their MPF rights have been infringed. MPFA also proactively follows up the suspected default contributions reported by trustees to protect the interests of the affected employees.

MPFA can initiate legal proceedings against non-compliant employers including filing civil claims to pursue default contributions on behalf of affected employees and initiating criminal prosecution via the police and the Department of Justice to instil deterrent effect.

In 2022–23, MPFA further enhanced collaboration with labour unions to protect members' interests. On various occasions, MPFA joined hands with labour unions in meeting with affected employees of defaulting employers, explaining to them their MPF rights under the MPF legislation and assisting them to recover default contributions.



Meet with affected employees of defaulting employers to offer help

## Cases Investigated (Breakdown by Suspected Non-Compliances)<sup>^</sup>

	2022-23	2021-22	2020-21
Default contribution	39 608	44 596	45 241
Non-enrolment	1 136	1 080	1 268
Forced change to self-employed persons	24	17	19
Others <sup>1</sup>	136	129	154
<b>Total:</b>	<b>39 645</b>	<b>44 651</b>	<b>45 332</b>

<sup>^</sup> Since a case may involve more than one type of suspected non-compliance, the total number of suspected non-compliances may exceed the total number of cases investigated.

## Actions Against Non-Compliant Employers Under the MPFSO

	2022-23	2021-22	2020-21
Employment establishments inspected	929	858	870
Payment notices issued in respect of default contributions	346 700	317 500	304 000
Financial penalty imposed on repeat defaulters <sup>2</sup>	93	46	40
Employers involved	88	43	40
Total penalty	\$531,000	\$397,000	\$594,300
Default contributions <sup>3</sup> recovered for employees	\$145 million	\$140 million	\$196 million
Employees involved	96 600	82 800	108 000

## Civil Claims Filed in Respect of Default Contributions

	2022-23	2021-22	2020-21
Small Claims Tribunal	1 208	864	800
District Court	43	36	67
High Court	0	0	0
Liquidators	114	128	129
<b>Total:</b>	<b>1 365</b>	<b>1 028</b>	<b>996</b>

## Court Actions Taken

	2022-23	2021-22	2020-21
Garnishee Orders granted by court to seize money from defaulting employers' bank accounts	80	124	91
Bailiff actions taken to seize assets of defaulting employers	36	78	119
Court orders granted to compel convicted employers to rectify non-compliance	2	3	9

1 Failure to notify trustees of termination of employment, failure to issue monthly pay record, etc.

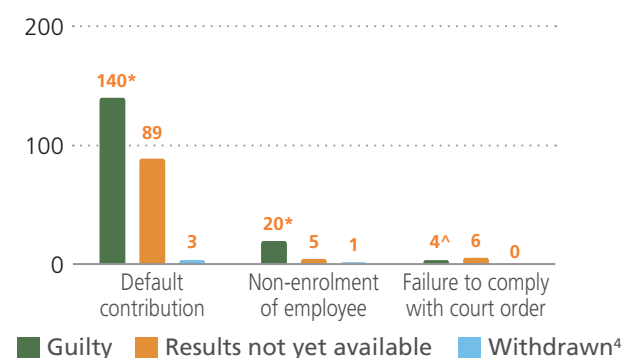
2 Failure to pay MPF contributions in respect of an employee to the trustee within the prescribed period.

3 This amount includes surcharge calculated at 5% of the amount of MPF contributions in arrears imposed on employers who failed to make MPF contributions for their employees within the prescribed period. The surcharges received are credited into the MPF accounts of the employees concerned.

## Prosecution Actions

During the year, 268 summonses were issued to employers and directors/managers of limited companies for prosecution in respect of suspected non-compliance.

### Prosecution Status (31.3.2023)



\* Involving 30 employers and one director of a limited company (total fine: \$386,000)

^ Involving two employers and one director of a limited company (fined between \$4,000 and \$60,000 each)

## Non-Compliant Employer and Officer Records

We maintain a database of Non-Compliant Employer and Officer Records (NCEOR) on the MPFA website to enhance the deterrent effect on non-compliant employers and officers as well as increasing the transparency of MPFA's enforcement actions. Members of the public can view and search for information on employers and officers with MPF non-compliance records resulting from legal proceedings initiated by MPFA.

## Records in NCEOR Database

	2022-23	2021-22	2020-21
Civil awards or judgements	3 112	2 787	2 608
Criminal conviction records	502	541	582
<b>Total:</b>	<b>3 614</b>	<b>3 328</b>	<b>3 190</b>

## Non-Compliant Employers Under the ORSO

The following actions were taken to recover default contributions on behalf of affected employees under Occupational Retirement Schemes (ORSO schemes):

	2022-23	2021-22	2020-21
Payment notices issued in respect of default contributions under MPF exempted ORSO registered schemes <sup>5</sup>	104	112	79
Default contributions in MPF exempted ORSO registered schemes recovered for employees	\$31,000	\$91,000	\$126,000

<sup>4</sup> Summonses were withdrawn because defendants had become untraceable or ceased operation.

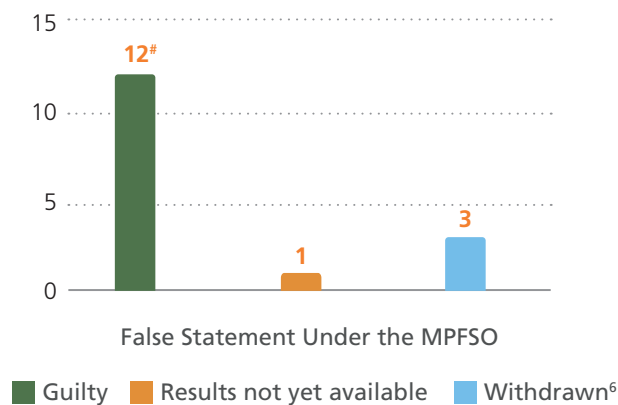
<sup>5</sup> A surcharge calculated at 15% or 20% of the amount of ORSO contributions in arrears is imposed on employers who failed to make ORSO contributions for their employees. No surcharge will be imposed in the first payment notice in respect of ORSO contributions.

## Non-Compliant Scheme Members

MPFA prosecutes members of MPF or ORSO schemes who make false or misleading statements to trustees for early withdrawal of MPF on grounds of permanent departure from Hong Kong. In 2022–23, 16 summonses were issued to MPF scheme members for making false statements.

To tackle syndicate crime relating to the inducement of scheme members to make such false statements, we refer cases to the Police for investigation from time to time. In 2022–23, four scheme members and three syndicate members involved in cases referred to the Police earlier were convicted of fraud. They were fined, sentenced to community service order or probation order.

## Prosecution Status (31.3.2023)



<sup>#</sup> Involving 6 MPF scheme members with an average fine of about \$4,583

<sup>6</sup> Summonses were withdrawn because defendants had become untraceable.