

# Protective

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**Key Features**  
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With a rapidly aging population, our current senior population (aged 65 or over) of 760 000 comprising 11% of the population will rapidly escalate to two million, or one-fifth of the population in some 36 years. The aging problem is aggravated by the fact that two thirds of the workforce are not covered by any retirement benefit system. With the exception of statutory pensions and provident funds for civil servants and school teachers, existing retirement schemes are voluntary in nature and registered under the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO). These existing arrangements are evidently inadequate to provide for the entire aged population.

In August 1995, the Hong Kong Government enacted the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) to provide a formal system of retirement protection for the workforce. The MPFSO provides the framework for the establishment of a system of privately managed, employment-related Mandatory Provident Fund (MPF) schemes to accrue financial benefits for members of the workforce when they retire. The legislation was subsequently fine-tuned and supplemented by relevant subsidiary legislation in 1998.

The key features of the MPF System, the MPF legislation and further development of the legal framework are set out in this chapter.

### Key Features of the MPF System

#### Coverage

Unless exempted, all employees aged between 18 and 65 and self-employed persons under 65 will be required to participate as members of registered MPF schemes.

#### Contributions

Both the employer and the employee will be required to contribute 5% of the employee's relevant income. Self-employed persons will be required to contribute 5% of their relevant income. Contributions will be subject to the minimum and maximum level of relevant income (\$4,000 and \$20,000 per month respectively) in the case of employees and self-employed persons, and to the maximum level of the employee's relevant income (\$20,000 per month) in the case of employers.

#### Vesting, Preservation and Portability

The mandatory contributions made in respect of a scheme member will be fully and immediately vested in him/her. The accrued benefits will be required to be preserved until the attainment of retirement age of 65, though earlier benefit payment is allowed under certain prescribed circumstances. An employee will be able to transfer his accrued benefits to another account during change of employment.

#### Roles of Participants

##### *Employers*

As the MPF System is an employer-based system, employers will be responsible for ensuring that their employees become members of an MPF scheme. They also need to deduct and remit contributions to the trustees.

##### *Employees*

They will select investment of their accrued benefits. They will also play a self-policing role on their MPF accounts.

##### *Self-employed Persons*

A self-employed person will be personally responsible for becoming a member of a registered scheme and for remitting their contributions and monitoring their MPF accounts.

## Legislative Framework and Development

### MPF Legislation

Subsequent to its enactment in August 1995, the MPFSO was amended in March 1998 and three sets of regulations were made, two in April 1998 and one in May 1999. The regulations are:

- (1) The Mandatory Provident Fund Schemes (General) Regulation (General Regulation) sets out detailed requirements on the operation of MPF schemes including requirements on trustees and other service providers, enrolment, contribution, portability and withdrawal of accrued benefits arrangements, and investment requirements.
- (2) The Mandatory Provident Fund Schemes (Exemption) Regulation (Exemption Regulation) sets out the detailed requirements with regard to applications for exemption from MPF requirements in respect of schemes registered under the ORSO (ORSO schemes) and the ongoing monitoring requirements.
- (3) The Mandatory Provident Fund Schemes (Fees) Regulation (Fees Regulation) prescribes the types and amounts of fees imposed by the Mandatory Provident Fund Schemes Authority (MPFA), including fees payable on application for approval of trustees, registration of MPF schemes or approval of pooled investment funds, and annual registration fees to be paid by registered MPF schemes.

A full list of the subsidiary legislation and legislative amendments made in respect of the MPFSO since its enactment is at section (a) of Appendix I.

### ORSO Legislation

The ORSO was enacted in 1992 and brought into operation on 15 October 1993. It regulates all voluntarily established ORSO schemes operating in or from Hong Kong. The objective is to ensure that the ORSO schemes are properly administered and funded, and to 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 (RORS). A list of the subsidiary legislation and legislative amendments made in respect of the ORSO since its enactment is at section (b) of Appendix I.

### MPF Guidelines, Codes and Circular Letters

To supplement the MPF legislation, the MPFA has issued 37 sets of guidelines and codes as at 31 March 2000 to facilitate compliance with the legislation on the part of service providers and scheme participants, including those relating to the interface arrangements between MPF and ORSO schemes. Circular letters were also issued to service providers to provide further assistance on compliance. Lists of the guidelines and codes and circular letters issued are set out in Appendices II and III respectively.

### Proposed Legislative Amendments

In the course of applying the MPF legislative provisions, the MPFA has identified certain anomalies that may inhibit the smooth operation of the MPF System. To rectify these, the MPFA has planned to propose the Mandatory Provident Fund Schemes Ordinance (Amendment of Schedule 1) Notice 2000 and the Mandatory Provident Fund Schemes (General) (Amendment) Regulation 2000. Other statutory notices, orders and rules concerning the operational aspects of the MPF System will also be made in due course before the commencement of the MPF System in December 2000.

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