

# Effective



In addition to the **safeguards** already built into the legislation with which the relevant service providers are required to comply, the MPFA has also started to work out its own enforcement strategies for **effective scheme member protection**.

Protection of  
**MPF Scheme  
Participants**



In fulfilling its mission and objectives, the MPFA is responsible for ensuring that all relevant parties comply with the MPF legislation for the protection of MPF scheme members. In addition to the safeguards already built into the legislation with which the relevant service providers are required to comply, the MPFA has also started to work out its own enforcement strategies for effective scheme member protection.

### Safeguards Provided in the Legislation

To safeguard the interest of participants in MPF schemes, various requirements are stipulated in the MPFSO and the General Regulation with a view to securing the stability and effectiveness of MPF schemes.

To **safeguard** the interest of participants in MPF schemes, various requirements are stipulated in the MPFSO and the General Regulation with a view to securing the **stability** and **effectiveness** of MPF schemes.

#### Trust arrangement

All MPF schemes must be established under trust arrangement and governed by Hong Kong law. The assets of the schemes will be held separately from the assets of the trustees or the investment managers. The scheme assets will therefore be secured even if the trustees or the investment managers are in financial difficulties.

#### Capital adequacy

As mentioned in the chapter on supervision of the MPF industry, the trustees, custodians and investment managers of MPF schemes are subject to capital adequacy requirements. This ensures the financial soundness of the service providers.

#### Professional indemnity insurance

MPF trustees are required to take out professional indemnity insurance to cover losses that MPF schemes might sustain from fraud or negligence on the part of the trustee and other service providers, as well as from other risks.

#### Compensation Fund

The Compensation Fund is set up under the MPFSO to compensate any MPF scheme member or other person who has beneficial interests in MPF schemes for any loss in MPF accrued benefits caused by misfeasance or illegal conduct committed by MPF trustees or any other person engaged in the administration of the MPF scheme. Every MPF scheme member's accrued benefits derived from both mandatory or voluntary contributions will be protected by the Compensation Fund; and there will be no pre-set limit on the amount per claim.

The Hong Kong Government had already injected \$600 million as the seed money of the Compensation Fund. On top of this seed money, a levy of 0.03% of the scheme's net asset value will be charged to every MPF scheme annually after the commencement of the MPF System so as to build up a larger reserve to attain a more sizeable protection cover for scheme members.

### Enforcement Measures

The MPFA has set up a framework under which those provisions under the MPFSO governing the duties and rights of scheme members, employers and self-employed persons are enforced to ensure that the participants in the MPF schemes comply with the legislation and that their rights under the MPF System are protected.

#### Issuing of Participation Certificates

Under the MPF System, employers are required to enrol each of their employees to become a member of an MPF scheme. On completion of the enrolment procedures, the MPFA will issue participation certificates to the employers concerned. Employers are required to display these certificates at their offices and their employees' working places. The requirement for the display of participation certificates is one of the means to let the employees know that they have already been enrolled to become members of MPF schemes. Inspectors from the MPFA will carry out inspection to ensure that employers have enrolled their employees in MPF schemes and have properly displayed their certificates.

#### Handling of Default Contribution Cases

Under the MPF System, a self-employed person is required to make mandatory contributions and an employer is required to remit mandatory contributions for his employees to the scheme trustee no later than the contribution day for each contribution period. As trustees are the first point of contact with employers and self-employed persons and are in the best position to settle efficiently default cases caused by inadvertent omissions or other unintentional reasons, the MPF legislation requires the trustee to report default contribution cases to the MPFA. The MPFA, receiving notice of default contribution cases, will issue payment notices to the employers or self-employed persons concerned and require them to pay the outstanding contributions together with the contribution surcharge up to 20% per annum to the scheme trustee on or before a specified day. The contribution surcharge will be used to compensate scheme members for their potential loss of investment earnings due to the delay of contribution payment. The MPFA is also empowered to carry out investigation and impose financial penalties on default parties. If the default party does not pay within the period specified by the MPFA, the MPFA may issue a final notice to the default party and initiate prosecution procedures if necessary.

#### Inspection and Investigation of Employers and Self-Employed Persons

A team of around 60 inspectors will be set up by the MPFA to carry out routine and non-routine inspection and investigation on employers and self-employed persons. The purposes of the inspection are to ensure that the employers and self-employed persons fulfill the obligations imposed on them under the MPF System, such as the keeping of employment and contribution payment records and the proper making of mandatory contributions, and to ensure that the rights of the scheme members are being protected. The MPFA will also carry out investigation on employers and self-employed persons upon notification of complaints and suspected offences.

The MPFA has set up a framework under which those provisions under the MPFSO governing the duties and rights of **scheme members, employers and self-employed persons** are enforced to ensure that the participants in the MPF schemes comply with the legislation and that **their rights** under the MPF System are **protected**.



### Issuing Guidelines on Scheme Operation Arrangement

To prepare for the smooth implementation of the MPF System, much effort since the setting up of the MPFA has been devoted to preparatory work in this respect. Guidelines on scheme operation arrangements had been issued. A full list of these guidelines is included in Appendix II. More guidelines are being prepared and will be issued to facilitate scheme operation, including guidelines on the enrolment and contribution arrangement for employees and self-employed persons, guidelines on relevant income for mandatory contribution purposes and guidelines on contribution period in respect of an employee. These guidelines are for distribution to relevant associations and professional bodies and to the general public. Those finalized guidelines have also been uploaded to the MPFA's website for easy access by the public.

Members of the public are welcome to inspect any of the public registers, such as the registers of approved trustees, MPF schemes and MPF intermediaries, at the office of the MPFA. Various pamphlets and brochures on MPF are also available for collection.



### Liaison

As the MPF System is an employment related retirement system, it is envisaged that a fair amount of complaints and disputes on various MPF issues triggered off by employment-related matters may arise. The MPFA has therefore worked closely with the Labour Department so as to establish a mechanism for dealing with problems related to employment issues. Furthermore, the MPFA has also established working relationship with the Department of Justice and the Police in order to facilitate future prosecution of offences under the legislation. It has also liaised with the Business Registration Office with a view to compiling a comprehensive database on employers and self-employed persons in order to facilitate the enforcement of the MPF legislation. These working relationships will continue even after the full implementation of the MPF System to ensure its smooth operation. By maintaining close contact with these government departments, the MPFA aims to minimize any undue strain on the relationship between employers and employees, which may arise as a result of the implementation of the MPF System.

The MPFA has worked closely with the **Labour Department**, the **Department of Justice** and the **Police**. These working relationships will continue even after the full implementation of the MPF System to ensure its **smooth operation**.