



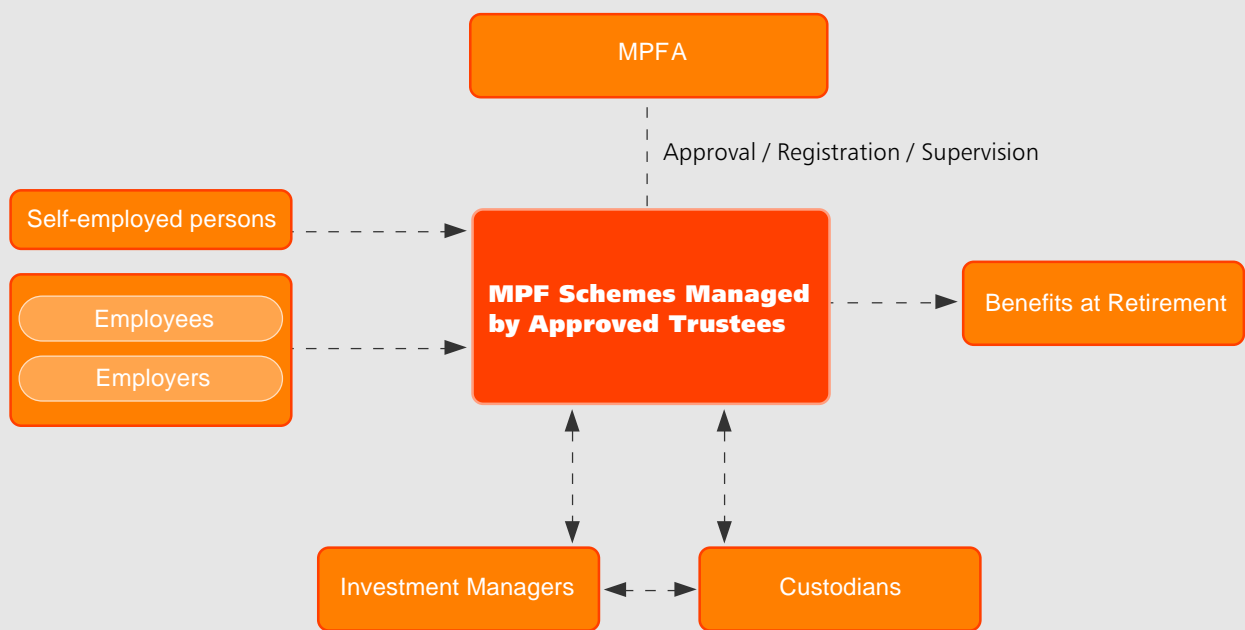
Professional

Supervision of the **MPF Industry**

The MPFA is responsible for **overseeing** the **operations** of the approved trustees and the registered MPF products to **ensure compliance** with the MPF legislation and for regulating MPF intermediaries.

The supervision of the MPF industry is one of the primary duties of the MPFA. Since its establishment, the MPFA has formulated policies relating to trustee requirements, MPF scheme standards, and investment standards. It vetted applications from service providers for registration as trustees and assessed the MPF products to be put on the market by these service providers. Subsequently, the service providers were also monitored to ensure continuing compliance with the legislation.

■ **Supervision of the MPF Industry under the MPF System**



Supervision of Trustees

Requirements for Approval as an MPF Trustee

A trustee applicant must meet stringent criteria before being granted approval to become an MPF trustee. For a local corporate applicant, the requirements for approval include capital adequacy, financial soundness, the fitness and properness of each controller, the skill, knowledge, experience and qualifications of the directors (including an independent director) and the chief executive officer, adequate insurance and internal control measures.

A corporate trustee must maintain an adequate amount of capital, as well as ensure that the custodian and investment manager appointed for an MPF scheme fulfil the relevant capital adequacy requirements.

CAPITAL ADEQUACY REQUIREMENT

Party	Minimum paid-up capital and net assets
Trustee	\$150 million (or \$30 million plus continuous financial support from an associated substantial financial institution)
Custodian	\$150 million (or \$50 million plus continuous financial support from an associated substantial financial institution)
Investment manager	\$10 million

An overseas corporate trustee has to meet similar requirements. In addition, it should be incorporated in a jurisdiction with company and trust laws comparable to those in Hong Kong, and subject to adequate supervision by an acceptable regulatory authority. Furthermore, it should have sufficient presence and control in Hong Kong.

As far as a natural person trustee is concerned, it is required that the person is ordinarily resident in Hong Kong and is fit and proper. The person must have had entered into a performance guarantee to indemnify the scheme against losses sustained as a result of breaches of the trustee or fiduciary duties by that person.

Processing of Applications

Each application for approval by the MPFA as a trustee is examined in detail to determine whether all the statutory approval requirements are satisfied. In the process, the MPFA consults relevant law enforcement agencies and conducts on-site visits and meetings with both the directors and key staff of the applicants. Up till 31 March 2000, 22 applications for approval as trustees and one application for withdrawal of approval as a trustee had been processed.

Monitoring Compliance with the MPF Legislation

The MPFA monitors the approved trustees' compliance with the MPF legislation by reviewing and analyzing the trustees' statutory returns and carrying out on-site inspections to scrutinize the operations of trustees. New appointment of directors or chief executive officers of approved trustees must have the prior consent of the MPFA based on the same approval requirements as for the initial approval process. As at 31 March 2000, the MPFA had given consent to the appointment of 11 directors.

Handling of Complaints

Complaints against approved trustees are investigated by the Trustee Team of the MPFA. Such complaints may originate from members of the public, scheme members or from service providers appointed by the approved trustees, as service providers have a statutory obligation to report to the MPFA any suspected incidences of non-compliance committed by the trustee. As at 31 March 2000, the MPFA had handled four complaints which were mainly related to advertisements of approved trustees.

Each application for approval by the MPFA as a trustee is **examined in detail** to determine whether all the **statutory approval requirements** are satisfied.

For the protection of scheme members' interests, necessary **follow-up actions** and **special investigations** will be carried out if deficiencies or contravention of the MPF legislation are identified.

Public Register of Approved Trustee

A public register has been set up in order to enable the general public to identify those trustees approved to administer registered MPF schemes. The register records the names and addresses of the approved trustees, and is available for inspection by the public at the MPFA's office during office hours. A list of the approved trustees can also be found on the website of the MPFA at www.mpfahk.org and in Appendix V of this report.

Reporting Requirements

To ensure that the trustees comply with the statutory requirements and to enable early detection of deficiencies, trustees are required to submit returns, audited financial statements and reports, in respect of the trustees and the schemes under their trusteeship, on monthly, quarterly and annual bases. The MPFA has started to receive monthly returns for registered schemes since February 2000. Audit reports are required to accompany certain returns in order to allow an independent review of the financial position and the operation of the trustees and their respective schemes. Where a significant event has taken place or where an approved trustee has failed to satisfy any of the conditions or requirements applicable to it, a timely report has to be lodged with the MPFA. For the protection of scheme members' interests, necessary follow-up actions and special investigations will be carried out if deficiencies or contravention of the MPF legislation are identified. So far no special investigation had been necessary.

Supervision of MPF Schemes / Products

MPF Schemes

There are three types of MPF schemes, namely master trust schemes, employer-sponsored schemes and industry schemes.

A master trust scheme is an MPF scheme of which membership is open to the relevant employees of more than one employer, self-employed persons and persons with accrued benefits transferred from other schemes. By pooling the contributions of small employer units together for administration and investment, master trust schemes can enjoy a high degree of efficiency resulting from economies of scale. Thus, this type of scheme is especially suitable for small and medium-sized companies.

An employer-sponsored scheme is an MPF scheme of which membership is restricted to the relevant employees of a single employer and its associated companies only. Therefore, these schemes may address the specific needs and circumstances of the sponsoring employers and their employees. However, due to the amount of resources required in administering a scheme, it is likely that only large companies will consider setting up their own employer-sponsored schemes.

An industry scheme is a special type of MPF scheme designed for industries with high intra-industry mobility. A member of an industry scheme does not have to change scheme when he/she changes employment within the same industry, so long as his/her previous and new employers are registered with the same industry scheme. This will help to reduce the costs involved in transferring employees' accrued benefits from one scheme to another. Industry schemes are currently planned for the construction and catering industries. Employers and self-employed persons in these two industries may join the industry schemes.

An industry scheme is to be set up through tendering in accordance with section 21A of the MPFSO. On 2 November 1999, the MPFA wrote to the 21 approved trustees and invited them to submit applications for establishing an industry scheme. At the closing of the tender on 30 November 1999, the MPFA had received applications from five approved trustees.

The Industry Schemes Selection Board (ISSB), which was set up in June 1999, was responsible for assessing the applications for registration of industry schemes. The results of the assessment were announced in April 2000. The ISSB comprised members from both the catering and construction industries representing the interests of both employers and employees, and directors of the MPFA.

The ISSB assessed the applications for registration of industry schemes according to the following criteria:

- (a) Scheme design;
- (b) Fee structures and fee adjustment mechanism;
- (c) Viability and feasibility;
- (d) Provision of client services; and
- (e) Tenure of services.

After the close of the 1999-2000 financial year, the MPFA registered two industry schemes selected by the ISSB on 13 April 2000.

Requirements for Approval as an MPF Product

To be registered as an MPF scheme, a provident fund scheme must be managed under trust and governed by Hong Kong law. Each scheme may consist of one or more constituent funds in which members can invest their contributions and accrued benefits. All of the constituent funds within a scheme must have different investment policies, and at least one of them has to be a capital preservation fund that satisfies the specific requirements of the MPF legislation. All assets of the scheme must be kept separate from the assets of employers, trustees and other service providers. The investment manager of the scheme must comply with a comprehensive set of investment standards and guidelines comparable to international standards for retirement funds.

Pooled investment funds for investment by MPF schemes must be approved by the MPFA. These funds must be in the form of a unit trust or insurance policy and comply with requirements similar to those applicable to an MPF scheme.

Processing of Applications

In processing applications for registration of MPF schemes and approval of pooled investment funds, the MPFA conducted detailed vetting of the constitutive documents to ensure that the applicants have complied with all regulatory requirements, including operational criteria and investment restrictions. In order to ensure proper and adequate disclosure of scheme information to scheme members, the MPFA has also worked closely with the Securities and Futures Commission (SFC) on vetting the marketing materials to be distributed by service providers.

In processing applications for registration of MPF schemes and approval of pooled investment funds, the MPFA **conducted detailed vetting** of the constitutive documents to ensure that the applicants have complied with all **regulatory requirements**.

The MPFA **oversees** the operation of the MPF schemes and the activities of the investment managers to **ensure** that they comply with the MPF legislation.

At the end of March 2000, the MPFA has registered 45 master trust schemes and approved 253 constituent funds. It has also received 265 applications for approval of pooled investment funds, and the MPFA has undertaken to process applications that comply with all requirements by the end of July 2000. Statistics on registered MPF schemes and underlying constituent funds are included in Part B of the Statistics section.

Monitoring Compliance with the MPF Legislation

The MPFA oversees the operation of the MPF schemes and the activities of the investment managers to ensure that they comply with the MPF legislation. This is achieved through regular reviews of scheme reports submitted by the trustees and on-site inspections to identify any areas for improvement or rectification. In order to monitor the operations of the schemes and the funds on an ongoing basis, any proposed changes to them are required to be vetted by the MPFA before the amendments can be implemented. As at 31 March 2000, 129 such amendments had been processed.

Reporting Requirements for Investment

In accordance with the MPF legislation, all registered schemes have to submit monthly returns and annual statements to the MPFA. All these documents should provide detailed information on the membership of the schemes, contribution levels, underlying investments, financial positions and internal control procedures of the schemes. Returns for the constituent funds of the schemes have to be submitted on a quarterly basis. As contributions to the schemes had not commenced, the returns received on the constituent funds were nil returns. Similarly, annual statements have to be submitted by approved pooled investment funds to report on their investment activities and financial positions. The MPFA had started to receive the monthly returns required of the capital preservation funds from the 45 registered schemes.

Handling of Complaints

The MPFA will investigate any complaint regarding scheme operations or the investments of the accrued benefits raised by either the public, scheme members or service providers, in order to ensure that remedial measures can be taken at the earliest opportunity. So far, only some minor complaints on wording of documents such as principal brochures had been received and handled.

Public Register of Registered MPF Schemes with their Constituent Funds and Approved Pooled Investment Funds

The MPFA has set up public registers of all the registered MPF schemes and their underlying constituent funds, which are available for inspection by the public at the office of the MPFA during office hours. A full list of the registered schemes and their underlying constituent funds can also be found on the MPFA's website at www.mpfahk.org and in Appendix VI of this report. Once the MPFA approves the first batch of funds by the end of July 2000, the register for approved pooled investment funds will also be set up and made available for public inspection.

Supervision of Intermediaries

Regulatory Framework

The MPFA has adopted a decentralized approach to the regulation of MPF intermediaries. Instead of licensing MPF intermediaries directly, the MPFA relies on the existing regulatory regimes as far as practicable for the licensing and supervision of MPF intermediaries. These existing regulatory regimes, or relevant regulators, include:

- (a) the Hong Kong Monetary Authority (HKMA);
- (b) the Insurance Authority (IA), including the self-regulatory organizations of the insurance industry; and
- (c) the SFC.

A Memorandum of Understanding Concerning the Regulation of MPF Intermediaries was signed and an MPF Intermediaries Regulation Coordinating Committee was established comprising representatives from the MPFA, the HKMA, the IA and the SFC. The MPFA has taken up the role of the lead regulator and coordinator in the regulation of MPF intermediaries.

Registration Requirements

To meet basic registration requirements, MPF intermediaries must be supervised by at least one of the three financial regulatory regimes, namely, the HKMA, the IA and the SFC. All MPF intermediaries that are individuals must also pass an MPF intermediaries examination recognized by the MPFA. MPF intermediaries who intend to give advice on both securities and insurance policies need to comply with licensing requirements of the SFC and the IA.

Processing of Applications

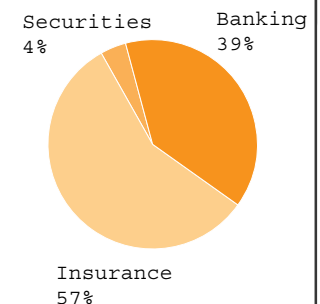
As at 31 March 2000, the MPFA had registered a total of 28 475 MPF intermediaries, comprising 373 corporations and 28 102 individuals, the latter of whom were issued with Mandatory Provident Fund intermediaries cards (MPF cards).



Number of Registered MPF Intermediaries as at 31 March 2000

Total number of registered MPF intermediaries	28475
Corporate intermediaries	373
Individual intermediaries	28102
Permitted to advise on insurance policies	13925
Permitted to advise on securities	9197
Permitted to advise on securities & insurance policies	4980

MPF Individual Intermediaries by Industry (as at 31 March 2000)



Inspections will be conducted on MPF corporate intermediaries to **ensure compliance** with the Code of Conduct for MPF Intermediaries.

Monitoring Compliance with Code of Conduct for MPF Intermediaries

Each relevant regulator is responsible for monitoring MPF intermediaries that fall under its supervision to ensure that they remain fit and proper to be registered. In this regard, inspections will be conducted on MPF corporate intermediaries to ensure compliance with the Code of Conduct for MPF Intermediaries (Code of Conduct). In February this year, the relevant regulators agreed on the division of responsibilities, the inspection objectives and the approach to inspections and planned to start their inspection programmes in the second quarter of year 2000.

Handling of Complaints

The MPFA is responsible for receiving public complaints relating to MPF intermediaries and for referring prima facie cases of breaches of the Code of Conduct to the relevant regulators for follow-up. Each regulator is responsible for investigating alleged breaches of the provisions of the Code of Conduct, and for taking appropriate enforcement or disciplinary actions on the MPF intermediaries that are under its supervision. As of 31 March 2000, there had only been a few complaints on MPF intermediaries and follow-up actions have been taken to resolve the issues of concern.

Public Register

The MPFA keeps a register of all registered MPF intermediaries. The public can verify an MPF intermediary's registration status by calling the MPFA hotline, checking the MPFA website or visiting the MPFA office.

Appeal Mechanism

Power of the MPFA

The MPF legislation provides the MPFA with the powers to inspect and investigate the activities of approved trustees, and to demand additional information and documents in respect of the trustees' MPF business or their schemes. The MPFA is empowered to impose financial penalties on any trustee who breaches the MPF legislation, and order the trustee to take remedial measures to protect the interests of the scheme members. It can also suspend an approved trustee's administration of a scheme for further enquiry into its scheme/trustee operation. In the interim period, another trustee will be appointed by the MPFA to administer the scheme on a temporary basis, until the suspended trustee rectifies the deficiency to the satisfaction of the MPFA and is qualified to resume its trustee activities. In serious cases, the MPFA has the power to revoke the approval of the trustee and terminate the trustee's administration of the scheme, as well as to commence legal proceedings against the trustee.

As regards MPF intermediaries, suspect misconduct cases would be passed to the relevant regulators for consideration of further investigation and disciplinary actions, where appropriate. In the event that an MPF intermediary is found to have committed misconduct, the MPFA would consider de-registering the MPF intermediary who would be required to return his MPF card.

Appeal Board

The Mandatory Provident Fund Schemes Appeal Board (the Appeal Board) is an independent statutory board set up to hear any appeal against the decisions of the MPFA with respect to licensing issues (i.e. approval of trustees, registration of schemes, etc.), exemption of ORSO schemes, voluntary winding up of employer-sponsored schemes, and merger and division of schemes. The membership of the Appeal Board is set out in Appendix IV. The Appeal Board had not received any appeal as at 31 March 2000.

Coordination with Other Regulators

The MPFA is the lead regulator of the MPF System. However, since the MPF System involves securities, insurance and banking products, the relevant financial regulators, namely the SFC, the IA and the HKMA have key roles to play in the regulation of MPF products and services.

Since MPF schemes and their underlying approved pooled investment funds are, in essence, a form of collective investment products, the SFC is responsible for authorizing MPF schemes (including their constituent funds) and pooled investment funds under the Protection of Investors Ordinance (Cap. 335). In this regard, the SFC is responsible for vetting the disclosure of information and authorizing offering documents and marketing materials relating to MPF products. The SFC is also responsible for licensing the investment managers and regulating the MPF intermediaries who are its registrants.

The main function of the IA is to ensure that insurance companies engaging in MPF services operate properly, with sufficient assets to meet their liabilities as stipulated under the Insurance Companies Ordinance (Cap. 41). The IA, together with the Hong Kong Federation of Insurers, The Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers Association Limited, is responsible for regulating MPF intermediaries who are qualified under the insurance regulatory regime.

The HKMA is responsible for regulating 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 ensuring that they maintain financial soundness. It is also responsible for regulating MPF intermediaries who are staff of authorized financial institutions.

The MPFA had signed a Memorandum of Understanding with the SFC concerning the two regulatory bodies' respective roles in the regulation of MPF products in addition to the Memorandum of Understanding Concerning the Regulation of MPF Intermediaries signed with the HKMA, the IA and the SFC.

Since the MPF System involves **securities, insurance and banking products**, the relevant financial regulators, namely the **SFC**, the **IA** and the **HKMA** have **key roles** to play in the regulation of MPF products and services.