

Protecting the Interests of Scheme Members

Overview

Our role

- To monitor enrolment in MPF schemes and withdrawal of MPF accrued benefits
- To conduct inspection and investigate cases of non-compliant employers and scheme members
- To take enforcement actions against non-compliance
- To recover default MPF contributions on behalf of scheme members
- To enhance the image of MPFA as a law enforcer and promote the understanding of MPF legislation

In 2013-14, we

- conducted 2 002 proactive inspections at employment establishments to check on compliance with MPF requirements
- recovered on behalf of employees \$146.3 million in default MPF contributions
- implemented measures to enhance the compliance of self-employed persons ("SEPs") and took enforcement actions against non-compliant SEPs
- applied for summonses against 95 scheme members who made false statements to withdraw their MPF accrued benefits on grounds of permanent departure from Hong Kong and 10 summonses in respect of cases where the employers failed to pay any sum payable under tribunal or court awards

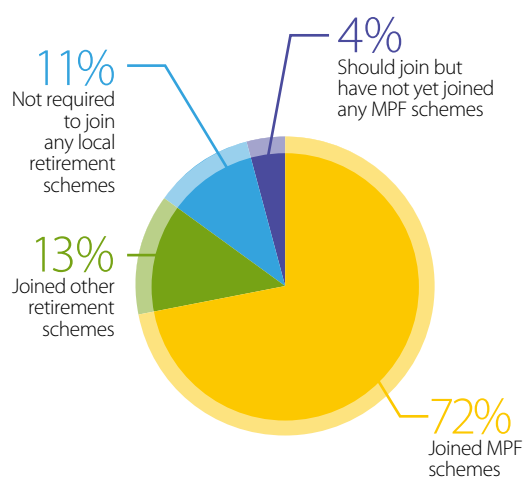
Protecting the Interests of Scheme Members (cont'd)

Enrolment

(as at 31 March 2014)

At present, 85% of the working population in Hong Kong are under some form of retirement protection.

Employed Population by Type of Retirement Schemes



Participation rates in the MPF System remained high throughout 2013-14. As at 31 March 2014, the estimated enrolment rates and estimated numbers of participating members are as follows:

	Number *	Enrolment Rate ^
Employer	266 300	99%
Relevant Employee	2 493 900	100%
SEP	211 700	61%

* rounded to the nearest 100

^ rounded to the nearest integer

Detailed statistics on enrolment are in Part A of the Statistics section.

Enquiries and Complaints

In 2013-14, we received:

111 098 Enquiries	Majority were about transfer or withdrawal of benefits, contribution arrangement and enrolment arrangement.
4 588 Complaints	Majority were about default contribution and non-enrolment.

Detailed statistics on enquiries and complaints are in Part D of the Statistics section.

Enforcement Actions

Non-Compliant Employers

Most employers are law-abiding. Unfortunately, there are still some who seek to evade their MPF obligations by not enrolling their employees in any MPF schemes or not making mandatory contributions for them. We continued to take enforcement actions against non-compliant employers in the year:

Proactive Inspection

Conducted 2 002 proactive inspections at employment establishments to check employers' compliance with MPF requirements (mainly enrolment and making contributions). Major targets included catering establishments, retail outlets and construction sites.

Debt Recovery Actions

Recovered on behalf of employees \$146.3 million in default MPF contributions through the courts, or by persuasion and counselling of the employers concerned:

- Issued 302 400 notices to employers who defaulted MPF contributions as reported by trustees to impose on them a surcharge calculated at 5% of the amount of MPF contributions in arrears¹; and investigated into 28 242 employers regarding contributions and surcharges in arrears;
- In respect of substantiated non-compliance cases, filed 1 claim with the High Court, 42 claims with the District Court and 332 claims with the Small Claims Tribunal on behalf of 102, 1 303 and 1 181 employees respectively, and made 196 applications for 2 554 employees to liquidators;
- With sufficient evidence, pursued criminal prosecution by applying to the Police for 477 and 62 summonses in respect of default contribution and non-enrolment cases respectively. As at 31 March 2014:
 - 78 employers (involving 425 summonses) pleaded guilty or had been convicted after trial. The total amount of fines imposed was \$1,483,100;
 - 7 directors/managers of limited companies (involving 37 summonses) had been convicted and fined between \$4,500 and \$49,000 each;
 - 15 court orders were applied to compel convicted employers to rectify their non-compliance with contribution requirements;
- Applied for 10 summonses (involving 8 employers and 1 director of limited companies) in respect of cases where the employers failed to pay any sum payable under tribunal or court awards. As at 31 March 2014, 5 employers and 1 director of a limited company (involving 6 summonses) pleaded guilty or had been convicted and fined between \$3,000 and \$6,000 each; and
- Imposed 35 financial penalties on 32 repeat defaulters.

¹ Surcharges received are credited into the MPF accounts of the employees concerned.

Protecting the Interests of Scheme Members (cont'd)

Non-Compliant SEPs

We continued to implement measures to enhance the compliance of SEPs. We tackled SEP default contribution cases reported by trustees and followed up on any non-compliant instances identified. Letters and leaflets on MPF rights and obligations were sent to SEPs upon their first joining an MPF scheme.

Non-Compliant Scheme Members

Summonses were served on 95 scheme members for making false statements in order to withdraw MPF accrued benefits on grounds of permanent departure from Hong Kong². As at 31 March 2014, 65 of them pleaded guilty and the average fine imposed was about \$4,800. On 24 April 2014, one of them was sentenced to imprisonment for 21 days upon conviction. This landmark case delivered a strong message that such MPF non-compliance is a serious offence. For the other cases, we are awaiting the court's judgments.

Detailed statistics on enforcement actions taken relating to employers and target groups are in Part E of the Statistics section.

Deterrent to Non-Compliance

Non-Compliant Employer and Officer Records

We maintained a Non-Compliant Employer and Officer Records section in the "Member Protection" section on MPFA's website to increase the transparency of MPFA's enforcement actions against non-compliant employers. From the database, members of the public can view and search for information on employers and officers with MPF non-compliance records, including criminal convictions and civil awards or judgments.

As at 31 March 2014, the database contained 3 267 non-compliance records (comprising 754 criminal conviction records and 2 513 civil awards or judgments).



Non-Compliant Employer and Officer Records section in the "Member Protection" section on MPFA's website

Intelligence Exchange with Stakeholders

To enhance the efficiency of our enforcement efforts, we maintained close communication and exchanged intelligence with stakeholders to enhance the deterrent effect against non-compliance. We also maintained close contact with labour unions to monitor and keep abreast of the situations of specific industries, especially those which tended to have more non-compliant cases, including the catering, retail, cleaning, security and construction industries.

² Under the current MPF legislation, the benefits accrued in a member's account in an MPF scheme are to be preserved until retirement. Permanent departure from Hong Kong is one of the circumstances under which a scheme member may apply for early withdrawal of MPF accrued benefits.