

## LCQ11: Default payments of Mandatory Provident Fund contributions by employers

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (June 4):

Question:

It has been reported that, while default payments of Mandatory Provident Fund (MPF) contributions by employers are considered as a "bad omen for closure of businesses", the number of such cases has been rising in recent years. In 2022, the number of "Payment Notice for Mandatory Provident Fund Contributions and Surcharge" (Payment Notice(s)) issued by the Mandatory Provident Fund Schemes Authority (MPFA) to employers defaulting on MPF contributions was about 340 000, and such number had increased to about 370 000 in 2023 and even reached about 400 000 last year, representing an average annual increase of about eight per cent. Also, the amount of default contributions which could not be recovered last year was as much as \$13 million. What is more, the increasing trend of cases of employers defaulting on MPF contributions is in line with the trend of closure of businesses. According to information from the Companies Registry, from 2022 to 2024, about 88 000, 94 000 and 116 000 companies were dissolved in Hong Kong respectively. On the other hand, there are views that among the 400 000 cases of employers defaulting on MPF contributions last year, the MPFA only filed 1 432 civil claims and issued 352 summonses for criminal prosecution, which indicated a low percentage of prosecutions. In this connection, will the Government inform this Council:

(1) whether it has studied the reasons why the aforesaid number of cases of employers defaulting on MPF contributions, which is considered as a bad omen for closure of businesses, increased drastically to about 400 000 last year; as there are views pointing out that the aforesaid situation is very much different from the Government's view that the economic trend continues to be positive, whether the Government has explored the reasons for such a huge difference;

(2) whether it knows why the MPFA has filed civil claims and instituted criminal prosecutions in respect of only a very small number of employers defaulting on MPF contributions, and the criteria based on which the MPFA determines to file civil claims or institute criminal prosecution in respect of the cases of default contributions;

(3) given that default payments of MPF contributions is a criminal offence and the employers concerned are liable on conviction to imprisonment of a maximum of four years, and there are views that employers will not default on

MPF contributions unless they are left with no alternative, and therefore the situation of employers defaulting on MPF contributions can be taken as a prediction of the economic outlook, whether the Government knows if the MPFA will consider publicising on a monthly basis the number of Payment Notices it has issued, or compiling a list of enterprises defaulting on MPF contributions for a prolonged period of time, e.g. more than six months, to enable the various sectors of the community to have an early grasp of the economic situation of Hong Kong; and

(4) there are views pointing out that given the current operating conditions of enterprises which are even worse than those of the period during the epidemic, the continued bad omens for closure of businesses, increasing number of affected unemployed persons, and the unemployment rate which has risen to 3.4 per cent, whether the authorities will consider allowing business operators and enterprises with similar operating difficulties as mentioned above, as well as their employees, to temporarily suspend their MPF contributions, so as to alleviate the burdens on employers and employees and prevent "the wave of closure of businesses" from spreading?

Reply:

President,

One of the important functions of the Mandatory Provident Fund Schemes Authority (MPFA) is to ensure that employers fulfil their statutory responsibility of making the Mandatory Provident Fund (MPF) contributions for their employees on time, so as to protect the interests of employees. Based on various sources of information, including reports from trustees on default contribution cases, employee complaints, referrals from trade unions, media reports, etc, the MPFA will issue "Payment Notices for MPF Contributions and Surcharge" (Payment Notices) in accordance with statutory requirements to employers who are suspected of failing to make timely MPF contributions, and initiate investigations as needed. Once it is verified that an employer has defaulted on making contributions, the MPFA will recover the default contributions and impose a surcharge calculated at five per cent of the default amount, which will be allocated in full to the affected employees' MPF accounts upon successful recovery.

In consultation with the MPFA, the reply to the four parts of the question is as follows:

(1) According to Payment Notices issued by the MPFA to employers in the past, most cases involved administrative issues, such as incomplete or incorrect information in submitted documents, calculation errors, failure to receive contributions by trustees due to technical issues, etc. Moreover, an employer who continuously defaults on contributions will receive multiple Payment Notices. It is therefore not appropriate to rely solely on the number of Payment Notices issued by the MPFA to assess the overall situation of employers defaulting on contributions or Hong Kong's overall economic condition. Nevertheless, we agree that all cases of defaulting on MPF contributions should be taken seriously.

(2) In 2024-25, the MPFA issued a total of around 400 000 Payment Notices to employers, with around 25 per cent of the cases having settled their default contributions and surcharges within the time limit (i.e. two weeks after Payment Notices were issued). For the remaining cases where the employers were confirmed to be in arrears after the time limit, almost all of them settled the outstanding payments upon the MPFA's communication and request. The MPFA was only required to recover outstanding payments from a small proportion of these cases (about 1 700 cases) by taking legal actions through civil proceedings. Should these employers fail to settle the default contributions even after the court rulings, the MPFA would take further legal actions, including applying to the court for charging orders, garnishee orders, requesting actions from the bailiff, etc. In the aforesaid year, the MPFA successfully recovered around \$200 million of default contributions, whereas around \$10 million of default contributions were not recovered, representing about 0.01 per cent of the total contributions made. In addition, to enhance deterrence, the MPFA prosecutes non-compliant employers if sufficient evidence is found during investigation, and the complainant is willing to become a prosecution witness and provide relevant information. In 2024-25, a total of around 280 summonses were issued against employers and directors and managers of limited corporations who had defaulted on contributions. There were about 180 successful convictions with fines imposed for each case ranging from \$1,000 to \$5,000.

(3) To enhance transparency, the MPFA has regularly published relevant figures on default MPF contributions. For instance, the MPFA reports monthly to the Legislative Council Panel on Manpower the number of complaints received for employers' default contributions, the number of Payment Notices issued to employers, the number of cases filed in courts, etc. Such information is also published on the MPFA's website for public inspection. In addition, the MPFA provides on its website a "Non-Compliant Employer and Officer Records", which enables the public to access information about non-compliant employers, as well as relevant civil and criminal court rulings, thereby strengthening the deterrence against non-compliant employers. To further safeguard the interests of employees, the MPFA has submitted to the Government the proposal on implementing a tiered surcharge for default MPF contributions. The Government will give due consideration and follow up as appropriate.

(4) There are currently no provisions in the legislation providing for the suspension or deferral of part or all of the mandatory contributions. The suspension of mandatory MPF contributions will inevitably undermine the integrity of the MPF System as a long-term and steady retirement savings scheme for the accumulation of benefits and value growth. Not only will implementing this proposal reduce the retirement protection of employees, but also the support provided to employers is limited. The Government considers it inappropriate to implement the recommendation after analysing and weighing carefully its long-term implications.