



強制性公積金計劃管理局  
MANDATORY PROVIDENT FUND  
SCHEMES AUTHORITY

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本局編號 Our Ref. : MPFA/E/MP/94/6(C)  
來函檔號 Your Ref. :

31 July 2003

Mr P W Mak  
Assistant Official Receiver  
Official Receiver's Office  
11/F, Queensway Government Offices  
66 Queensway  
Hong Kong

**By Fax & By Mail**  
Fax No.: 2536 9963

Dear Mr Mak

### **Recovery of Default Contributions and Surcharges**

I refer to our recent telephone conversation regarding the captioned issue.

As you are aware, Section 18 of the Mandatory Provident Fund Schemes Ordinance provides that a mandatory contribution will become due to the Authority if the amount is not paid within the period prescribed by the Mandatory Provident Fund Schemes (General) Regulation. When the Authority becomes aware that a company is being wound up / a person is bankrupt and there are unpaid mandatory contributions and contribution surcharges due by the company / bankrupt, the Authority will file proof of debt regarding the outstanding amounts in respect of employees of the company / bankrupt to the liquidators / Official Receiver. The recovered amount would be credited into the employees' MPF accounts.

According to Section 265 of the Companies Ordinance (Cap. 32), unpaid mandatory contributions which should have been paid by the company being wound up should be regarded as preferential payments and shall be paid in priority (with other preferential payments) to all other debts. Similarly, unpaid contributions which should have been paid by the bankrupt shall, in accordance with Section 38 of the Bankruptcy Ordinance (Cap. 6), be paid in priority with other preferential payments during the distribution of the property of the bankrupt.

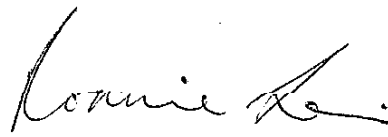
Up to date, the Authority has filed more than 370 proof of debts to the liquidators. It has come to the Authority's attention that some liquidators are not aware that outstanding mandatory contributions should be regarded as preferential debt and the assets of the liquidated companies are distributed to other preferential debtors. As a result, the MPF scheme members' retirement benefits have been adversely affected.

In this regard, I should be grateful if your office could remind the liquidators of the preferential debt status of the outstanding contributions under both the Companies Ordinance and Bankruptcy Ordinance and that it should rank equally as other preferential debts. This would ensure the interests of MPF scheme members are being properly protected.

Should you have any queries, please feel free to contact me.

Thank you very much for your help.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ronnie Lai". The signature is fluid and cursive, with a long horizontal stroke at the end.

(Ronnie LAI)  
Senior Manager  
Member Protection Department