

# Enabling legislation to abolish the MPF offsetting mechanism

The government has recently reiterated its intentions to abolish the offsetting arrangement whereby employers are permitted to “offset” their severance payment (“SP”) or long service payment (“LSP”) obligations against their contributions to the MPF schemes

This anomaly of the system has been discussed in Hong Kong over many years, but remains outstanding to date. According to information from the MPFA, about HK\$5.8 billion of members’ MPF benefits were used to offset SP or LSP between October 2019 and September 2020 - a considerable amount of money otherwise destined to be used towards retirement savings.

## Target implementation by 2025

The Chief Executive promised to start the corresponding legislative process during the current term of office. According to the latest news, the government plans to submit the bill as soon as possible in 2021 or 2022, and to complete the legislation process before the end of the term of the current government. The goal is to implement it simultaneously with the introduction of the eMPF platform by 2025.

## A new arrangement for services rendered after the implementation

According to the previously announced proposals, when the new arrangements are implemented, the employee’s service will be divided into two portions, pre- and post- the effective date. The existing MPF offset mechanism will continue to apply in respect of benefits accrued and employer contributions made before the effective date, whilst new rules (no offsetting) will apply for service after the effective date.

For example, consider an employee who has worked for 7 years in total (5 years before and 2 years after the effective date) and has a monthly salary of \$15,000 per month, the SP or LSP on termination would be

\$105,000. The pre-effective date portion is HK\$75,000, which may continue to be offset by the employer’s pre-effective date MPF contributions. The remaining HK\$30,000 in respect of the post-effective date period may not be offset, and must be paid in full.

In order to help employers plan for the financial impact of the proposed changes, employers will be required to set up a “special savings account” within the eMPF platform, with the aim of building a reserve to help fund future potential SP or LSP. As such, employers will be required to make regular contributions to this account based on 1% of employee’s monthly income, until the account reaches 15% of all employees’ annual income.

## Two-tier funding eases employers’ financial burden

In addition to the above employer funding, the government indicated that it will also take up part of the financial responsibility, by providing employers with a subsidy, amounting to an estimated HK\$29.3 billion. The subsidy will have 2 levels: the first level of subsidy will last for 12 years, and the second level for 25 years. The first-tier subsidy means that the government will subsidize 50% of SP or LSP for the first 3 years, with the percentage being reduced by 5% for each year thereafter. This is expected to trigger Government expenditure of HK\$14.7 billion. The second-tier of funding targets small and medium-sized enterprises, whose “special savings account” may not be sufficient to pay out the SP or LSP. The funding period for tier 2 is 25 years. Again, the Government will subsidize 50% for the first 3 years, after which the subsidy reduces by 5% every three years. From the 22nd year onwards, the subsidy will be reduced by 5% every two years.

It should be noted that the above details were a part of the proposal put forward by the Government in 2018. Since this time, labor and employer representatives have continued to have discussions with relevant government departments, so the final proposals may be different from those described above. The legislative process for abolishing the MPF offsetting mechanism will soon start to regain momentum. However, we will have to wait for the government to make further announcements before knowing the final details and timing.

# 取消積金對沖將進入立法程序

政府最近再次與傳媒提起取消遣散費或長期服務金與強積金對沖的事宜。這在香港社會上已討論多時，但依然未能立法。據積金局資料顯示，在 2019 年 10 月至 2020 年 9 月之間，有約 58 億元的強積金福利用作抵銷遣散費或長期服務金，金額可說相當之大。

## 目標 2025 年實施

取消強積金對沖一直以來也是勞工界爭取的目標，政府已落實在本屆將令取消對沖進入立法程序。根據最新消息，政府計劃於下屆立法會盡早提交對沖條例草案，爭取能夠於本屆政府任期屆滿前完成立法，目標是 2025 年與積金易平台同時實施。

## 劃線後年資才以新制處理

早前政府施政報告提出相關方案，當計劃實施後，僱員的年資將於當天劃線，劃線之前累積的年資以及所可能涉及的遣散費或長期服務金，將會沿用舊機制進行對沖，而之後的年資將會以新方式處理，即不會對沖。例如有一位工作七年的僱員，於劃線前工作五年，劃線後工作兩年，假設其薪金為每月 15,000 元計算，總額為 105,000，前五年的 75,000 元仍會被對沖，而後兩年的 30,000 元將不會被對沖。

為了確保僱主能夠應付不對沖後的財務影響，條例將規定僱主必須在積金易平台中設立專項儲蓄戶口，為其日後潛在的遣散費或長期服務金早作儲蓄，並按僱員每月收入的 1% 作出供款，直至達到所有僱員年度收入的 15%。

## 兩層資助減輕僱主財務承擔

此外，政府也會承擔財部份務責任，向企業提供取消對沖資助金額，總數為 293 億元，分為兩層資助：第一層資助年期為 12 年，而第二層的資助年期為 25 年。所謂第一層資助，是政府於計劃實施首三年，會為取消對沖提供 50% 的資助比例，並於第四年開始按年遞減 5%，合共為期 12 年，當中涉及的開支為 147 億元。第二層資助則是針對專項儲蓄戶口不足以支付遣散費或長服金的中小微企。資助年期一共 25 年，首 3 年資助比例為 50%，由第 4 年開始每 3 年遞減 5%，並於第 22 年起改為每 2 年遞減 5%。

要注意的是，以上是政府於較早時間所提出的方案。一路以來，勞方與資方都有與政府相關部門緊密討論，所以最終的方案可能跟上述有別。大家都要等待政府作進一步的公佈，才知道實際的操作及安排。

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