



**Legco Bills Committee on Mandatory Provident Fund Schemes
(Amendment) (No. 2) Bill 2011**

bc_01_11@legco.gov.hk

13th February 2012

Dear Members of the Bills Committee,

Please find herewith self explanatory information regarding the HKMA's instruction to its contractors to divest from all tobacco stock portfolio holding.

Since the MPF intermediaries are about to be subjected to a statutory control regime please ensure that the prevention of unethical tobacco stock portfolio holding is included in the intermediaries regulation and also forbid other unethical investing such as those made in weapons' manufacturers and the like.

<http://www.legco.gov.hk/yr11-12/english/bc/bc01/general/bc01.htm>

"Proposed statutory regime to control intermediaries.

JUSTIFICATIONS

***Setting up a statutory Mandatory Provident Fund ("MPF")
intermediaries regulatory regime***

(a) The need to replace the existing administrative regulatory arrangements with a statutory regime

21. At present, MPFA implements an administrative regulatory regime for MPF intermediaries through its "Code of Conduct for MPF Intermediaries". Under this administrative regime, MPFA is the standard setter and registration authority whereas HKMA, IA and SFC are, in accordance with the Memorandum of Understanding signed between them and MPFA, responsible as far as practicable for the day-to-day supervision of MPF intermediaries who are also their own regulatees under the Banking Ordinance (Cap. 155), Insurance Companies Ordinance (Cap. 41) and SFO respectively."

EMAIL TO MPFA and FSTB February 8th 2012

From: James Middleton [mailto:dynamco@netvigator.com]

Sent: Wednesday, February 08, 2012 16:34

To: 'fredericky@fstb.gov.hk'; 'mpfa@mpfa.org.hk'; 'NancyWong@mpfa.org.hk'; 'AliceSCTang@mpfa.org.hk'

Subject: MPFA Trustees - investments in tobacco stocks must be divested to comply with the International ratified FCTC Treaty

Dear Mr Yu

Please see the self explanatory reply from the Hong Kong Monetary Authority. The FCTC Treaty applies to ALL departments of the Hong Kong Government which has a fiduciary duty to comply across the board and to instruct, as the HKMA has done, the MPFA and its contractors to comply and divest accordingly.

Kind regards,

James Middleton

Chairman

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WHO Treaty Framework Convention on Tobacco Control Article 5.3

FCTC Article 5.3

http://www.who.int/fctc/guidelines/article_5_3.pdf

4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry

4.10 Parties should not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in kind from the tobacco industry.

4.11 Taking into account national law and constitutional principles, Parties should have effective measures to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates or campaigns, or to require full disclosure of such contributions.

Yours sincerely,

James Middleton

Chairman
Clear the Air NGO

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2 February 2012

Mr James Middleton
Chairman
Clean the Air NGO and Charity
8/F Eastwood Centre
5 A Kung Ngam village Road
Shaukeiwan
Hong Kong

Dear Mr Middleton,

**Framework Convention on Tobacco Control
of the World Health Organisation**

Thank you for your letter dated 16 December 2011 to Mr Norman Chan, the Chief Executive of the Hong Kong Monetary Authority (HKMA), and your subsequent e-mails in January 2012 to the general public enquiry email account of the HKMA.

We hope you will understand that owing to market sensitivities of the details of the investment of the Exchange Fund, we do not normally comment on the investment operations of the Exchange Fund.

But we can assure you that the investment of the Exchange Fund will comply with guidelines issued under international conventions that Hong Kong is party to. This includes the adoption of the Guidelines for Implementation of Article 5.3 of the Framework Convention on Tobacco Control (FCTC) by the World Health Organisation (WHO) as referred in your letter.

For the investment portfolio managed internally by the HKMA investment team, there is no investment that will infringe the FCTC guidelines. However, we also make use of external fund managers to manage the equity investments of the Exchange Fund. Since some of the mandates awarded are passive mandates requiring the managers to track common stock indices, which may imply that by design the portfolio may include investing in a large number of index constituent stocks across a variety of industries, including the tobacco industry. In the light of the relevant guidelines under the FCTC, we have already requested all our external managers to examine their stock holdings for the account of the Exchange Fund, and make necessary arrangements to divest from the stock holding of tobacco industry as soon as practicable if any such holding is identified. This exercise is now in good progress.

Thank you for your kind attention.

Yours sincerely,

(Francis Chu)

Executive Director (Reserves Management)