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## BRIEFING ON THE ROLE OF US COMPANIES IN WITHHOLDING HONG KONGERS' MANDATORY PROVIDENT FUND

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### ARREST OF HONG KONGERS SEEKING TO WITHDRAW THEIR MANDATORY PROVIDENT FUND

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On October 13, 2023, the Hong Kong Independent Commission Against Corruption for the Hong Kong Government issued a statement confirming that it has arrested 20 individuals related to Hong Kongers who were seeking to withdraw their Mandatory Pension Fund from Hong Kong.<sup>1</sup>

According to the Government's press release, in total 20 individuals were arrested, including an insurance agent for Sun Life, as part of a so-called "scheme" to make representations to Mandatory Provident Fund providers that they intended to move to Mainland China so they could gain early withdrawal of their pension savings.

This follows the decision by the Chinese Government to no longer recognise the British National Overseas Passport as a legitimate identity document and to direct Mandatory Provident Fund providers to deny thousands of Hong Kongers who have left the city access to their pension savings.

On October 17 2023, a former Hong Kong district councillor, Yau Tsim Mong, was arrested by the police on suspicion of breaching the Mandatory Provident Fund Schemes Ordinance by promoting retirement plans without proper registration.<sup>2</sup>

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### THE MANDATORY PROVIDENT FUND: BACKGROUND

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The Mandatory Provident Fund (MPF) is a compulsory retirement saving scheme for the people of Hong Kong. Most employees and their employers are required to contribute monthly to MPF schemes provided by approved financial institutions. Both employer and employee are required to contribute five per cent of the employee's monthly income, up to **HK\$1,500 (USD\$192) per month**. Those earning less than HK\$7100 (USD\$908) per month are not required to contribute.

The Mandatory Provident Fund Schemes Authority (MPFA) supervises the provision of MPF schemes. The MPFA registers schemes and has the powers to enforce compliance with legislation.

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### BACKGROUND TO THE BNO VISA AND EXTENSION

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Since the opening up of the UK's British National (Overseas) visa in January 2021,<sup>3</sup> to the end of 2022, 160,700 people from Hong Kong applied for the scheme that allows those with BNO status – and their dependents – to live, work and study in the UK.<sup>4</sup> It provides a pathway to settlement in five years, with citizenship a year thereafter.

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<sup>1</sup><https://www.hongkongwatch.org/all-posts/2023/10/13/hong-kong-watch-expresses-concern-regarding-the-arrest-of-10-hong-kongers-seeking-to-withdraw-their-pension-savings-from-hong-kong>

<sup>2</sup><https://www.scmp.com/news/hong-kong/law-and-crime/article/3238192/former-hong-kong-district-councillor-arrested-over-mpf-law-breach-accused-illegally-promoting-scheme>

<sup>3</sup> <https://www.gov.uk/british-national-overseas-bno-visa>

<sup>4</sup> <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022/how-many-people-come-to-the-uk-each-year-including-visitors#british-national-overseas-bno-route>

The policy was announced in Parliament by then Foreign Secretary Dominic Raab on 1 July 2020,<sup>5</sup> the day after the implementation of the National Security Law in Hong Kong which represented a flagrant breach of the Sino-British Joint Declaration of 1984.

After a concerted effort led by Damian Green MP in the House of Commons, and Lord Alton of Liverpool, Lord Patten of Barnes, and Lord Falconer of Thoroton in the House of Lords over the past two years, the Government announced plans to open the scheme to those born after the handover in 1997, are over 18 years old, and who have a BNO status parent.<sup>6</sup>

Previously, these young people could only come together in a family unit with their BNO status parents. This change was implemented at the end of November 2022.

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## TOTAL MPF ASSET SIZE

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As of December 2022, the total value of all MPF schemes was a little over **HK\$1.05 trillion (USD\$134.3 billion)**.<sup>7</sup> In 2022, there were 31,700 claims for early MPF withdrawal on the grounds of permanently leaving the territory.<sup>8</sup>

Hong Kongers can withdraw their entire MPF savings early if they make a statutory declaration that they have departed Hong Kong permanently with no intention of returning to resettle in Hong Kong. The MPFA states: “they are also required to provide documentary proof satisfactory to the trustees that they are permitted to reside in a place outside Hong Kong.”<sup>9</sup> This would typically take the form of a visa, residence permit, or passport that permits the individual to reside in a place outside of Hong Kong. Other reasons for early withdrawal include early retirement (beyond the age of 60), total incapacity, terminal illness, small balance (under HK\$5,000) or death.

However, the MPFA released a statement on 10 March 2021 saying that because the British National (Overseas) (BNO) passport was no longer recognised by the Hong Kong government as a valid travel document as well as proof of identity as of the end of January 2021,<sup>10</sup> those trying to withdraw their MPFs early (before retirement) cannot rely on the BNO passport as evidence in support of an application for early MPF withdrawal.<sup>11</sup>

As a result of this statement, Hong Kongers who use the BNO visa route to escape the crushing of freedoms in the city and move to the UK do not have access to their pension savings which would give them a strong foundation for starting their new life.

Hong Kong Watch has seen several letters from banks to individuals, rejecting their early MPF withdrawal claims based on this new guidance from the MPFA.

As of the end of 2022, there are 4.69 million scheme members,<sup>12</sup> amounting to an **average of HK\$224,000 (USD\$28,700) per member**.<sup>13</sup>

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<sup>5</sup> <https://www.gov.uk/government/speeches/foreign-secretary-statement-on-national-security-legislation-in-hong-kong>

<sup>6</sup> <https://questions-statements.parliament.uk/written-statements/detail/2022-02-24/hcws635>

<sup>7</sup> <https://www.mpfa.org.hk/en/info-centre/research-reports/quarterly-reports/mpf-schemes>

<sup>8</sup> [https://www.mpfa.org.hk/en/-/media/files/information-centre/research-and-statistics/quarterly-reports/mpf-schemes/december\\_2022\\_issue.pdf](https://www.mpfa.org.hk/en/-/media/files/information-centre/research-and-statistics/quarterly-reports/mpf-schemes/december_2022_issue.pdf)

<sup>9</sup> <https://www.mpfa.org.hk/en/mpf-system/withdrawal-of-mpf/early-withdrawal#anchor2>

<sup>10</sup> <https://www.info.gov.hk/gia/general/202101/29/P2021012900763.htm>

<sup>11</sup> <https://www.mpfa.org.hk/en/info-centre/press-releases/202103001>

<sup>12</sup> [https://www.mpfa.org.hk/en/-/media/files/information-centre/research-and-statistics/quarterly-reports/mpf-schemes/december\\_2022\\_issue.pdf](https://www.mpfa.org.hk/en/-/media/files/information-centre/research-and-statistics/quarterly-reports/mpf-schemes/december_2022_issue.pdf)

<sup>13</sup> Total assets (HK\$1.05 trillion) divided by accounts (4.69 million).

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## US MPF TRUSTEE SIZE

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There are several US headquartered Mandatory Provident Fund trustees: AIA, Prudential, and Principal who are blocking thousands of Hong Kongers from accessing an estimated **USD\$588.5 million worth of savings** after they have fled Hong Kong to the UK on the BNO visa. Combined these three providers manage **USD\$30.2bn (21.4%)** worth of the MPF market.<sup>14</sup>

The AIA Group manages around **USD\$12.4bn (8.9% of the MPF market)** and is estimated to be blocking **USD\$244.7m** from leaving the city, Prudential manages around **USD\$10.1bn (7.1% of the MPF market)** and is estimated to be blocking **USD\$195.2m** from leaving the city, and Principal manages around **USD\$7.6bn (around 5.4% of the MPF market)** and is estimated to be blocking **USD\$148.5m** from leaving the city.<sup>15</sup>

Hong Kong Watch has seen several letters from banks to individuals, rejecting their early MPF withdrawal claims based on this guidance from the Hong Kong government to the Mandatory Provident Fund Authority which supervises the provision of MPF schemes.

### Case Study 1:

Rosie, who has her BNO visa and is living in a city in the Midlands, has over HKD 500,000 (£47,000) in her MPF account. She says some of her friends have more than double this amount saved. Her MPF is held by Principal Trust Company (Asia) Limited, a local arm of Principal Financial Group which is headquartered in the US. She began talks with her bank back in December 2020, and formally submitted a withdrawal request of her MPF in May 2021. Her request was rejected because her provider, as per the ruling of the MPFA, will not accept the BNO visa as valid evidence of leaving Hong Kong permanently.

Rosie is working in the UK now, but on a low salary. She says that the lack of access to her MPF savings is making the transition for her and her family much harder and she will have to work multiple jobs. In the worst case, she says, if she cannot sustain herself in the UK, she will be forced back to Hong Kong and in danger of retribution from the authorities with the UK's 'Leave Outside the Rules' stamp in her Hong Kong passport.

In total, Hong Kongers in the UK are being denied access to around **USD\$2.75 billion in pension savings**.<sup>16</sup> As of December 2022, the total value of all MPF schemes was a little over **HK\$1.05 trillion (USD\$134.3 billion)**.

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<sup>14</sup> [https://mfp.mpfa.org.hk/eng/mpp\\_download\\_asset\\_size.jsp](https://mfp.mpfa.org.hk/eng/mpp_download_asset_size.jsp)

<sup>15</sup> Figure of estimated money blocked from leaving Hong Kong is calculated by taking the percentage of total MPF under management and dividing it as percentage of USD\$2.75 billion of total MPF assets currently being blocked. [https://mfp.mpfa.org.hk/eng/mpp\\_download\\_asset\\_size.jsp](https://mfp.mpfa.org.hk/eng/mpp_download_asset_size.jsp)

<sup>16</sup> Taking the average MPF account size (HK\$224,000 [USD\$28,700]) and multiplying it by the number of main BNO visa holders (96,000).

Trustee	Scheme	Net Asset Value (HKD' m)	Net Asset Value (US\$ m)
AIA Company (Trustee) Limited	AIA MPF - Prime Value Choice	97,333.69	12,439.68
BOCI-Prudential Trustee Limited	BOC-Prudential Easy-Choice Mandatory Provident Fund Scheme	75,986.30	9,711.39
BOCI-Prudential Trustee Limited	My Choice Mandatory Provident Fund Scheme	2,910.22	371.94
Principal Trust Company (Asia) Limited	Principal MPF Scheme Series 800	40,262.46	5,145.72
Principal Trust Company (Asia) Limited	Principal MPF - Smart Plan	17,571.52	2,245.72
Principal Trust Company (Asia) Limited	Principal MPF - Simple Plan	2,366.98	302.51
	TOTAL	236,431.17	<b>30,216.96 (USD\$30.2bn)<sup>17</sup></b>

## PROJECTED NUMBERS AFFECTED

As of the end of 2022, there had been **160,700 BNO visa applications**,<sup>18</sup> with the majority of these granted and being used to live in the UK. Around 60 per cent of these were main BNO applicants (non-dependents),<sup>19</sup> so it is likely that around 96,000 will have MPF accounts.<sup>20</sup> Of the main BNO visa holders, UK Home Office data to the end of September 2021 showed that 80 percent were between the ages of 25 and 54, with the 35–44 age bracket having the highest numbers.<sup>21</sup> Taking the average MPF account size (HK\$224,000 [USD\$28,700]), and multiplying it by the number of main BNO visa holders (96,000) there would be around **USD\$2.75 billion of MPF assets** that Hong Kongers are currently being denied access to.

The UK Home Office Impact Assessment on the BNO visa policy published in October 2020 estimated that 5.4 million Hong Kong residents will be eligible for the scheme, with 258,000 to 322,400 arriving over the first five years.<sup>22</sup> The current rate of applications suggest these are reasonably accurate, but the actual figure may be far higher depending on push and pull factors in Hong Kong and the UK. If the upper figure of over 322,400 is taken, which suggests 179,300 main applicants, then taking the average MPF member account size of USD\$28,700, there would be around **USD\$5.15 billion of MPF assets** that are being held back from Hong Kongers in the first five years of the BNO visa scheme alone.<sup>23</sup>

<sup>17</sup> [https://mfp.mpfa.org.hk/eng/mpp\\_download\\_asset\\_size.jsp](https://mfp.mpfa.org.hk/eng/mpp_download_asset_size.jsp)

<sup>18</sup> <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022/how-many-people-come-to-the-uk-each-year-including-visitors#british-national-overseas-bno-route>

<sup>19</sup> Main applicants made up almost 80,000 of 135,000 out of country BNO visa applications from Q1 2021 to the end of 2022. There were 55,000 dependents, meaning main applicants made up roughly 60 percent of overall BNO visa applications.

<sup>20</sup> We got to 96,000 by taking 60 percent of 160,700.

<sup>21</sup> <https://www.gov.uk/government/publications/survey-of-hong-kong-british-national-overseas-visa-holders-2021/hong-kong-bno-survey-results-accessible-version#table-1---age-group-of-bno-visa-holders-up-to-30-september-2021>

<sup>22</sup> [https://www.legislation.gov.uk/ukia/2020/70/pdfs/ukia\\_20200070\\_en.pdf](https://www.legislation.gov.uk/ukia/2020/70/pdfs/ukia_20200070_en.pdf)

<sup>23</sup> This figure is estimated by taking USD\$28,700 and multiplying it by 179,300.