

Annual Report of
The Protection of Wages on
Insolvency Fund Board

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CHAIRMAN'S FOREWORD

2004-05 proved to be an encouraging year for the Protection of Wages on Insolvency Fund Board. With the rebound of the economy, the year saw a further drop in the number of applications received. The size of the decrease, at 41%, was significant, with 12 788 applications received compared with 21 567 applications in 2003-04. As the economy further improves, this falling trend is likely to continue.

I am pleased to report that the Fund registered a surplus of \$114.7 million for the 2004-05 financial year, the first surplus since the Asian financial crisis in 1997. This has put the financial position of the Fund on a sound footing again after a series of deficits recorded in the last couple of years. To enable the Fund to meet its short-term cash flow commitments, the Finance Committee of the Legislative Council approved in November 2002 the extension of a standby loan of \$695 million to the Fund Board. With the improved financial position of the Fund, we were able to repay the loan of \$22 million, drawn in March 2004, together with accrued interest in full to the Government in April 2005. As at the end of the financial year, the accumulated surplus of the Fund stood at \$96.3 million.

As a result of the exceedingly hard work put in by the staff of the Wage Security Division of the Labour Department (LD), 18 299 applications were processed during the year. Of these, 15 568 applications were approved, with the total amount of ex-gratia payment made amounting to \$315.8 million. It is gratifying to note that the time required to process applications and make payment has been further shortened to 4 weeks compared with 4.7 weeks in the previous year.

Possible abuse of the Fund is greatly concerned by the Board and the public. The LD has already in place stringent vetting procedures. This is demonstrated by the fact that some 15% of the applications were either rejected or withdrawn during the year. I am sure that the LD, working in close collaboration with the inter-departmental Task Force, which comprises representatives of the LD, Commercial Crime Bureau (CCB) of the Hong Kong Police Force, the Official Receiver's Office (ORO) and the Legal Aid Department (LAD), will continue to spare no effort in protecting the Fund from abuse.

During the year, the Board, in collaboration with the LD, conducted a customer opinion survey and organised a large-scale seminar on corporate governance and related commercial crimes. The Board met five times to discuss matters relating to the administration of the Fund, including a special meeting to discuss the handling of cases involving scheme of arrangement under the Companies Ordinance. It also dealt with eight applications for review against the decisions of the Commissioner for Labour under section 17 of the Protection of Wages on Insolvency Ordinance.

Finally, on behalf of the Board, I would like to thank various Government departments for the assistance they have rendered in the operation of the Fund. We are grateful to the Inland Revenue Department for collecting the levy, the LAD for assisting employees to go through legal proceedings necessary for applications to the Fund, and the CCB of the Hong Kong Police Force and the ORO for their efforts in combating abuses of the Fund. In particular, I would like to express my appreciation to the staff of the Wage Security Division of the LD who have continued to work with great dedication in processing the applications promptly and in rendering valuable secretariat services to the Board.

HO Sai-chu, SBS, JP

Chairman

Protection of Wages on Insolvency Fund Board

September 2005

MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2004-05

Chairman

Mr. HO Sai-chu, SBS, JP

Members

Representing employees

Mr. WAN Koon-sun, MH

Ms. LAM Shuk-ye, BBS

Mr. CHEUNG Pak-chi, MH

Representing employers

Mr. Michael LI Hon-shing, BBS, JP

Mr. Clement CHEN Cheng-jen, JP

Mr. MA Ho-fai, JP

Representing government departments

Assistant Commissioner of the Labour Department
responsible for wage security matters

Assistant Official Receiver

Assistant Principal Legal Aid Counsel of the Legal Aid Department
responsible for matters relating to insolvency and other civil litigation

Secretary

Senior Labour Officer, Wage Security Division of the Labour Department

Group photo of members and staff of the Protection of Wages on Insolvency Fund Board



Rear row from the left:

Mr. Ernest IP Yee-cheung

Secretary

Mr. Michael LI Hon-shing, BBS, JP

Representing employers

Mr. MA Ho-fai, JP

Representing employers

Mr. CHEUNG Pak-chi, MH

Representing employees

Mr. Clement CHEN Cheng-jen, JP

Representing employers

Mr. WAN Koon-sun, MH

Representing employees

Front row from the left:

Miss Betty CHAN King-wah

Assistant Principal Legal Aid Counsel,
Legal Aid Department

Ms. May LEE Mei-yee

Assistant Official Receiver,
Official Receiver's Office

Mr. HO Sai-chu, SBS, JP

Chairman

Mr. Alan WONG Kwok-lun

Assistant Commissioner,
Labour Department

Ms. LAM Shuk-yee, BBS

Representing employees

INTRODUCTION

The Protection of Wages on Insolvency Ordinance (the Ordinance), which came into effect on 19 April 1985, provides for the establishment of a board to administer the Protection of Wages on Insolvency Fund (the Fund). The Ordinance also empowers the Commissioner for Labour to make ex-gratia payment from the Fund to employees whose employers have become insolvent.

This report covers the activities of the Protection of Wages on Insolvency Fund Board (the Board) and the operation of the Fund for the financial year ended 31 March 2005.

PROTECTION OF WAGES ON INSOLVENCY FUND BOARD

The Ordinance provides that the Board should consist of a chairman and not more than 10 members appointed by the Chief Executive. There shall be an equal number of persons representing employers and employees and not more than four public officers.

The Board has the following statutory functions:

- (a) to administer the Fund;
- (b) to make recommendations to the Chief Executive with respect to the rate of levy; and
- (c) to review applications upon request from applicants aggrieved by any decision of the Commissioner for Labour in connection with the application for ex-gratia payment from the Fund.

PROTECTION OF WAGES ON INSOLVENCY FUND

The Fund is mainly financed by a levy on each business registration certificate. The levy is collected by the Inland Revenue Department when the business registration fee is paid. The levy rate has been increased from \$250 to \$600 per annum with effect from 16 May 2002.

Under the Ordinance, employees who are owed wages, wages in lieu of notice and severance payment by their insolvent employers may apply for ex-gratia payment from the Fund. The application should be made in an approved form and supported by a statutory declaration. The application has to be made within a period of six months from the applicant's last day of service.

Maximum amount of ex-gratia payment payable by the Fund

Ex-gratia payment from the Fund covers:

- (a) wages of an employee for services rendered to his employer during the four months prior to the last day of service but not exceeding \$36,000 (“wages” include remuneration and earnings and items deemed to be wages under section 43 of the Employment Ordinance, namely, statutory holiday pay, annual leave pay, end of year payment, maternity leave pay and sickness allowance);
- (b) wages in lieu of notice up to one month’s wages or \$22,500, whichever is the lesser; and
- (c) severance payment up to \$50,000 plus 50% of any entitlement, under the Employment Ordinance, in excess of \$50,000.

Prerequisites for making ex-gratia payment from the Fund

Section 16(1) of the Ordinance requires the presentation of a winding-up or bankruptcy petition as a pre-condition for payment from the Fund. However, under section 18(1) of the Ordinance, the Commissioner for Labour may exercise discretion to make payment without the presentation of a petition in circumstances where -

- (a) the size of employment is less than 20 employees;
- (b) sufficient evidence exists to support the presentation of a petition in that case on the ground -
 - (i) if the employer is a company, that he is unable to pay his debts; or
 - (ii) if the employer is a person other than a company, that he is liable to have a bankruptcy petition presented against him; and
- (c) it is unreasonable or uneconomic to present a petition in that case.

The Commissioner for Labour is also empowered under section 16(1)(a)(ii) of the Ordinance to make ex-gratia payment from the Fund to employees who, because of a restriction imposed by the Bankruptcy Ordinance, cannot present a bankruptcy petition against their employer as the aggregate amount of outstanding payment is below \$10,000.

The Commissioner for Labour is empowered by the Ordinance to investigate applicants’ claims before making payment from the Fund. For the purpose of verifying applications, the Commissioner may demand employers and applicants to submit wage and employment records and request them to attend interviews.

Subrogation rights of the Fund

Where ex-gratia payment has been made to an applicant in respect of wages, wages in lieu of notice and severance payment, his rights and remedies under the Companies Ordinance or the Bankruptcy Ordinance would, to the extent of the amount of payment, be transferred to the Board. The Board, in exercising these subrogated rights, may file a proof of debt with the Official Receiver or the private liquidator for the purpose of recovering in the course of winding-up or bankruptcy proceedings any payment made to the applicant.

Application of the Fund's reserve

In accordance with section 10 of the Ordinance, the Board has obtained the Financial Secretary's approval to invest not more than 20% of the Fund's uncommitted balance in equities as the Board thinks fit. However, with falling reserve, all investment holdings entrusted with the fund manager has been liquidated in October 2001. A property was purchased in 1990 to provide office accommodation for the Board. All cash has been placed in banks approved by the Board as term deposits.

ANNUAL REVIEW OF APPLICATIONS RECEIVED AND PROCESSED

The applications received and processed in this financial year, together with the relevant analyses, are summarized as follows:

Applications received

During the year 2004-05, 12 788 applications involving claims for ex-gratia payment of \$458.7 million were received from employees in 1 621 suspected insolvency cases. Detailed breakdown of the applications is at **Appendix I**.

Of the 1 621 suspected insolvency cases, 1 470 involved less than 20 employees, and 3 involved 100 employees or more. The remaining 148 cases involved 20 to 99 employees.

During the year, the restaurant and catering trade recorded the largest number of applications, with 5 644 applications involving a total claim of \$92.8 million. This was followed by the construction industry with 2 872 applications and a total claim of \$99.1 million, and the Import/Export industry with 949 applications and a total claim of \$59.5 million. Together these three trades accounted for 74.0% of all applications and 54.8% of the total amount claimed.

Out of 12 788 applicants, 12 025 applied for ex-gratia payment on arrears of wages, 7 984 applied for payment on wages in lieu of notice and 3 431 applied for payment on severance payment. Breakdowns of these applications are at **Appendices II, III and IV**.

Applications processed

A total of 15 568 applications were approved during the year, resulting in payment amounting to \$315.8 million. Out of these, a total payment of \$37.7 million was made to 2 163 applicants by the Commissioner for Labour exercising his discretionary powers under section 16(1)(a)(ii) or section 18(1) of the Ordinance.

An analysis of ex-gratia payment approved is at **Appendix V**. As indicated at **Appendix VI**, the claimed amount was met in full in respect of 75.1% of applicants on arrears of wages, 95.9% of applicants on wages in lieu of notice, and 67.6% of applicants on severance payment.

The Commissioner for Labour rejected 718 applications involving claims totalling \$43.4 million. Among the cases rejected, 425 applications were not eligible for the claims, 195 applications produced insufficient evidence, and 98 applications had already been settled with their employers or liquidators. The grounds rendering ineligibility of the claims were due to applicants' status as registered company directors, claims outside the 6-month qualifying period, claims without legal backing or claims without petitions.

A total of 2 013 applications involving claims amounting to \$77.3 million were withdrawn, mainly as a result of direct settlement between employees and their employers or liquidators, or because the applicants decided not to pursue their claims for various reasons.

Appendices VII and **VIII** set out the comparative figures on the Fund's performance in the last five to ten years.

MEETINGS OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD

The Board met five times during the year to discuss matters relating to the administration of the Fund. These included examination of its performance and financial statements as well as projection of income and expenditure. In addition, the Board also reviewed 8 appeals against the decisions of the Commissioner for Labour under section 17 of the Ordinance.

FINANCIAL POSITION OF THE PROTECTION OF WAGES ON INSOLVENCY FUND

During the year, the Fund received levy income of \$440.1 million and paid out a total of \$315.8 million in ex-gratia payment. The Fund registered a surplus of \$114.7 million, the first surplus since the Asian financial crisis.

As at 31 March 2005, the Fund's accumulated surplus was \$96.3 million.

A copy of the financial statements and the auditors' report for the year ended 31 March 2005 is at **Appendix IX**.

ACTIVITIES HIGHLIGHT

Seminar on "Corporate Governance - The Latest Trend of Modern Enterprise Management"

The seminar targeting at company directors, senior executives, professionals from accounting firms and trade union members was held on 25 January 2005 at the Auditorium of Boys' & Girls' Clubs Association of Hong Kong.



The seminar comprised three theme talks and was well received by some 330 participants from trade unions, employers associations, accounting firms and individual companies.



The seminar comprises three talks: "Good Practices in Corporate Governance"; "Key to Business Success - Lessons to Learn" and "Commercial Crimes Involving Employers, Company Directors and Shareholders" and an open forum for in-depth discussions.

The Permanent Secretary for Economic Development and Labour (Labour), Mr. Matthew CHEUNG Kin-chung, JP, made his opening address in the seminar.



The Board Chairman Mr. HO Sai-chu, SBS, JP, presented souvenirs to guest speakers: Ms. Wendy YUNG (left), Mr. YEUNG Kwok-ki, JP (middle) and Mr. CHAN Yiu-kwok (right).



Ms. Wendy YUNG, Company Secretary and Head of Corporate Services Division, Hysan Development Company Limited, awardee for the Director of the Year Award 2004 organised by the Hong Kong Institute of Directors, shared with participants good practices in corporate governance.



Mr. YEUNG Kwok-ki, Anthony, JP, director, K K YEUNG Management Consultant Ltd., a veteran company doctor experienced in conducting corporate rescue, highlighted the major factors leading to business success.



Mr. CHAN Yiu-kwok, Senior Superintendent of the Commercial Crime Bureau delineated real-life cases on commercial crimes involving employers, directors and shareholders.

Achievements of the Task Force in combating possible abuse of the Fund

The inter-departmental Task Force set up in November 2002 continued to play an active role in guarding against abuse of the Fund. The Labour Department, the Official Receiver's Office, the Legal Aid Department and the Commercial Crime Bureau of the Hong Kong Police Force acted in concert to proactively pursue and investigate allegations of possible abuse by employers and employees of the Fund.

As at 31 March 2005, the Labour Department referred 64 cases to the Commercial Crime Bureau and the Official Receiver's Office for investigation. The Commercial Crime Bureau arrested some 50 suspects in seven suspected conspiracy and deception cases. In an earlier conviction case, a director and an employee of a printing company were both sentenced to 12 months' imprisonment for false accounting with intent to defraud the Fund.

Customer Opinion Survey

The Board has in collaboration with the Labour Department, conducted a customer opinion survey from November 2004 to January 2005. Questionnaires were sent to 1 532 applicants and 167 of them completed and returned the questionnaires. Feedback from these customers showed that they were in general satisfied with the services provided by the Labour Department. The survey findings were presented to the Board in its meeting on 1 March 2005. The Board was satisfied with the result. Despite the satisfactory feedback from customers, the Labour Department will continue to keep its procedures under constant review and introduce improvement measures where necessary. Similar surveys will be carried out on a biennial basis.

Visit to Training Institute

With a view to enhancing Board Members' knowledge on the catering and hospitality industry, Mr. Michael LI, BBS, JP, Board Member, made arrangement for the Board to visit the Hospitality Industry Training and Development Centre of the Vocational Training Council at Kowloon Bay on 1 March 2005. Board Members were guided to tour around the training centre and briefed on the opportunities and challenges faced by the industry.



Board Members showed great interest in the training and facilities provided by the Centre.



Operating results of the Protection of Wages on Insolvency Fund in 2004-05

I. Breakdown of application by results

(1) No. of cases received		1 621					
(2) No. of applications							
(i) b/f last period		11 055					
received this period		12 788					
reconsidered this period		272					
		24 115					
(ii) processed		18 299					
<i>approved</i>		15 568					
<i>refused</i>		718					
<i>withdrawn</i>		2 013					
outstanding		5 770					
put aside*		46					
		24 115					
(3) Amount of ex-gratia payment (in HK\$'000) applied for	Arrears of wages	Wages in lieu of notice	Severance payment	HK\$'000			
(i) b/f last period				460,214			
received this period	246,847	+	52,639	+	159,256	=	458,742
reconsidered this period	4,143	+	825	+	12,156	=	17,124
							936,080
	Arrears of wages	Wages in lieu of notice	Severance payment	HK\$'000			
(ii) approved	178,988	+	38,641	+	98,193	=	315,822
screened							257,951
refused							43,388
withdrawn							77,294
outstanding							} 241,625
put aside*							
							936,080
(4) No. of applications seeking review by the Fund Board							8

II. Presentation of petition in relation to applications approved

(1) No. of applications where a winding-up petition has been made		11 529
(2) No. of applications where a bankruptcy petition has been made		1 876
(3) No. of applications dealt with under S.18(1) of the Protection of Wages on Insolvency Ordinance		1 955
(4) No. of applications dealt with under S.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance		208

III. Breakdown of cases by employment size

(1) Less than 20 employees		1 470
(2) 20 - 49 employees		109
(3) 50 - 99 employees		39
(4) 100 or more employees		3
		1 621

* Cases pending private settlement or withdrawal.

IV. Breakdown of applications by industry :

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of Applicants		Amount claimed (including wages, wages in lieu of notice and severance payment)
<i>Division 1</i>	<i>Agriculture and Fishing</i>	12	(4)	\$526,988.68
<i>Division 3</i>	<i>Manufacturing</i>			
Sub-group				
311-312	Food	43	(8)	\$2,518,173.48
313	Beverage industries	2	(1)	\$77,024.21
320-322	Wearing apparel, except footwear	211	(18)	\$11,502,844.09
323	Leather and leather products, except footwear and wearing apparel	7	(3)	\$278,215.60
325-329	Textiles	90	(21)	\$8,107,755.26
332	Furniture and fixtures, except primarily of metal	30	(6)	\$467,504.59
341	Paper and paper products	7	(2)	\$925,885.41
342	Printing, publishing and allied industries	264	(22)	\$28,902,982.12
351-352	Chemicals and chemical products	15	(1)	\$432,703.05
355	Rubber products	2	(1)	\$55,520.80
356	Plastic products	54	(8)	\$6,837,724.18
371-372	Basic metal industries	5	(3)	\$467,423.30
380-381	Fabricated metal products, except machinery and equipment	22	(4)	\$3,724,144.38
383	Radio, television & communication equipment and apparatus	2	(1)	\$195,924.63
384	Electronic parts and components	34	(12)	\$2,957,956.03
385	Electrical appliances & houseware and electronic toys	22	(2)	\$2,856,256.03
386-387	Machinery, equipments, apparatus, parts and components, not elsewhere classified	39	(7)	\$3,102,207.03
389	Professional & scientific, measuring & controlling equipment, not elsewhere classified, and photographic & optical goods	9	(2)	\$792,677.00
390-391	Manufacturing industries, not elsewhere classified	135	(22)	\$8,770,923.58
<i>Division 4</i>	<i>Electricity, Gas and Water</i>	58	(7)	\$4,726,547.13
<i>Division 5</i>	<i>Construction</i>	2 872	(439)	\$99,123,234.80
<i>Division 6</i>	<i>Wholesale, Retail and Import/Export Trades, Restaurants and Hotels</i>			
Sub-group				
611-612	Wholesale	183	(25)	\$13,072,050.38
621	Retail	469	(89)	\$24,764,923.70
631-632	Import/Export	949	(230)	\$59,499,242.25
641	Restaurants	5 644	(293)	\$92,830,100.60
651	Hotels and boarding houses	1	(1)	\$2,400.00

Note : Figure in brackets denotes the number of suspected insolvency cases.

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of Applicants		Amount claimed (including wages, wages in lieu of notice and severance payment)
<i>Division 7</i>	<i>Transport, Storage and Communication</i>			
Sub-group				
711	Land passenger transport	32	(5)	\$2,032,221.87
712	Land freight transport	233	(56)	\$11,772,684.03
713	Supporting services to land transport	28	(3)	\$1,065,490.38
714	Ocean and coastal water transport	17	(3)	\$2,560,423.67
717	Air transport	6	(2)	\$669,752.04
718	Services incidental to transport	26	(4)	\$824,775.36
721	Storage	9	(1)	\$371,665.10
731	Communications	38	(10)	\$1,443,873.56
<i>Division 8</i>	<i>Financing, Insurance, Real Estate and Business Services</i>			
Sub-group				
812	Finance and investment companies	48	(15)	\$3,714,156.41
819	Financial institutions, not elsewhere classified	37	(6)	\$4,497,148.64
821	Insurance	8	(3)	\$474,679.46
831	Real Estate	33	(6)	\$1,239,283.57
832	Rental of machinery and equipment	1	(0)	\$17,477.10
833	Business services except rental of machinery and equipment	232	(57)	\$17,820,649.95
<i>Division 9</i>	<i>Community, Social and Personal Services</i>			
Sub-group				
921	Sanitary and similar services	29	(8)	\$440,781.93
931	Education services	73	(18)	\$2,082,479.76
933	Medical, dental, other health and veterinary services	15	(5)	\$354,586.51
934	Welfare institutions	1	(1)	\$4,500.00
935	Business, professional and labour associations	27	(6)	\$2,517,921.61
939	Miscellaneous social and related community services	19	(5)	\$671,544.98
940-941	Motion pictures and other entertainment services	49	(12)	\$2,836,890.24
942	Libraries, museums, gardens and cultural services	4	(2)	\$21,202.77
949	Miscellaneous amusement & recreational services	199	(20)	\$6,093,733.44
951	Repair services	37	(14)	\$1,938,820.42
952	Laundry, dry cleaning, dyeing and garment services	54	(4)	\$3,724,627.80
959	Miscellaneous personal services	352	(123)	\$12,031,423.35
	Total :	12 788	(1 621)	\$458,742,126.26

Note : Figure in brackets denotes the number of suspected insolvency cases.

Appendix II

Breakdown of applications for ex-gratia payment on arrears of wages received in 2004-05

A. By amount

(including overtime pay and “deemed wages” under S.43 of the Employment Ordinance)

Amount	No. of applicants	Percentage
No entitlement/Not claimed	763	5.97
\$8,000* or less	4 511	35.27
\$8,001 - \$18,000	3 806	29.76
\$18,001 - \$24,000	1 033	8.08
\$24,001 - \$27,000	338	2.64
\$27,001 - \$30,000	293	2.29
\$30,001 - \$33,000	253	1.98
\$33,001 - \$36,000 [#]	197	1.54
\$36,001 - \$39,000	180	1.41
More than \$39,000	1 414	11.06
Total :	12 788	100.00

B. By periods of outstanding wages

(excluding overtime pay and “deemed wages” under S.43 of the Employment Ordinance)

Period	No. of applicants	Percentage
No entitlement/Not claimed	990	7.74
Half month or less	1 468	11.48
More than 1/2 month to 1 month	2 873	22.47
More than 1 month to 2 months	4 289	33.54
More than 2 months to 3 months	1 457	11.39
More than 3 months to 4 months	674	5.27
More than 4 months	1 037	8.11
Total :	12 788	100.00

* Preferential limit under the Bankruptcy Ordinance and the Companies Ordinance, i.e. wages not exceeding \$8,000 should be paid in priority to all other debts in the distribution of the remaining assets of the company during the winding-up/bankruptcy proceedings.

Maximum amount of ex-gratia payment on arrears of wages under the Protection of Wages on Insolvency Ordinance.

Breakdown of applications for ex-gratia payment on wages in lieu of notice received in 2004-05

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	4 804	37.57
\$2,000* or less	2 817	22.03
\$2,001 ~ \$6,000	2 457	19.21
\$6,001 ~ \$10,000	1 174	9.18
\$10,001 ~ \$15,000	806	6.30
\$15,001 ~ \$22,500 [#]	470	3.67
\$22,501 ~ \$25,000	66	0.52
More than \$25,000	194	1.52
Total :	<u>12 788</u>	<u>100.00</u>

B. By notice period

Notice period	No. of applicants	Percentage
No entitlement/Not claimed	4 804	37.57
1 day ~ 7 days	4 655	36.40
8 days ~ 14 days	46	0.36
15 days	40	0.31
16 days ~ less than 1 month	302	2.36
1 month* [#]	2 869	22.44
More than 1 month	72	0.56
Total :	<u>12 788</u>	<u>100.00</u>

* Preferential limit under the Bankruptcy Ordinance and the Companies Ordinance, i.e. wages in lieu of notice not exceeding one month's wages or \$2,000, whichever is the lesser, should be paid in priority to all other debts in the distribution of the remaining assets of the company during the winding-up/bankruptcy proceedings.

[#] Maximum amount of ex-gratia payment on wages in lieu of notice under the Protection of Wages on Insolvency Ordinance, i.e. not exceeding \$22,500 or one month's wages, whichever is the lesser.

Appendix IV

Breakdown of applications for ex-gratia payment on severance payment# received in 2004-05

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	9 357	73.17
\$8,000* or less	341	2.67
\$8,001 ~ \$36,000	1 616	12.64
\$36,001 ~ \$50,000	435	3.40
\$50,001 ~ \$80,000	487	3.81
\$80,001 ~ \$110,000	236	1.84
\$110,001 ~ \$140,000	143	1.12
\$140,001 ~ \$170,000	54	0.42
\$170,001 ~ \$200,000	55	0.43
\$200,001 ~ \$250,000	32	0.25
\$250,001 ~ \$300,000	14	0.11
\$300,001 ~ \$350,000	10	0.08
\$350,001 ~ \$370,000	2	0.01
\$370,001 ~ \$390,000	6	0.05
More than \$390,000	0	0.00
Total :	<u>12 788</u>	<u>100.00</u>

B. By length of service

Length of service	No. of applicants	Percentage
Not claimed or less than 2 years' service	9 395	73.47
2 ~ 4.99 years	1 598	12.50
5 ~ 5.99 years	300	2.35
6 ~ 6.99 years	234	1.83
7 ~ 7.99 years	243	1.90
8 ~ 8.99 years	165	1.29
9 ~ 9.99 years	136	1.06
10 ~ 14.99 years	480	3.75
15 ~ 19.99 years	146	1.14
20 ~ 24.99 years	43	0.34
25 ~ 29.99 years	28	0.22
30 ~ 34.99 years	12	0.09
35 ~ 38.99 years	4	0.03
39 ~ 40.99 years	1	0.01
41 ~ 42.99 years	1	0.01
43 years' service and over	2	0.01
Total :	<u>12 788</u>	<u>100.00</u>

The maximum amount of payment out of the Protection of Wages on Insolvency Fund is \$220,000.

* Preferential limit under the Bankruptcy Ordinance and the Companies Ordinance, i.e. severance payment not exceeding \$8,000 should be paid in priority to all other debts in the distribution of the remaining assets of the company during the winding-up/bankruptcy proceedings.

Analysis of ex-gratia payment approved in 2004-05

A. Analysis of payment approved for arrears of wages

(including overtime pay and “deemed wages” under S.43 of the Employment Ordinance)

Amount	No. of applicants	Percentage
No claimed/Not approved	1 647	10.58
\$4,000 or less	2 567	16.49
\$4,001 ~ \$8,000	3 384	21.74
\$8,001 ~ \$10,000	1 430	9.19
\$10,001 ~ \$12,000	1 084	6.96
\$12,001 ~ \$14,000	829	5.32
\$14,001 ~ \$16,000	642	4.12
\$16,001 ~ \$18,000	601	3.86
\$18,001 ~ \$28,000	1 599	10.27
\$28,001 ~ \$36,000 [#]	1 785	11.47
Total :	15 568	100.00

B. Analysis of payment approved for wages in lieu of notice

Amount	No. of applicants	Percentage
No claimed/Not approved	6 765	43.45
\$2,000 or less	3 912	25.13
\$2,001 ~ \$3,000	1 452	9.33
\$3,001 ~ \$4,000	934	6.00
\$4,001 ~ \$5,000	330	2.12
\$5,001 ~ \$6,000	336	2.16
\$6,001 ~ \$10,000	780	5.01
\$10,001 ~ \$22,500 [†]	1 059	6.80
Total :	15 568	100.00

C. Analysis of payment approved for severance payment

Amount	No. of applicants	Percentage
No claimed/Not approved	11 097	71.28
\$8,000 or less	1 343	8.63
\$8,001 ~ \$22,000	1 440	9.25
\$22,001 ~ \$36,000	822	5.28
\$36,001 ~ \$50,000	449	2.88
\$50,001 ~ \$80,000	309	1.98
\$80,001 ~ \$110,000	71	0.46
\$110,001 ~ \$140,000	15	0.10
\$140,001 ~ \$170,000	14	0.09
\$170,001 ~ \$200,000	7	0.04
\$200,001 ~ \$210,000	0	0.00
\$210,001 ~ \$220,000 [*]	1	0.01
Total :	15 568	100.00

[#] The maximum amount of ex-gratia payment out of the Protection of Wages on Insolvency Fund (the Fund) on arrears of wages.

[†] The maximum amount of ex-gratia payment out of the Fund on wages in lieu of notice.

^{*} The maximum amount of ex-gratia payment out of the Fund on severance payment.

Appendix VI

Analysis of approved ex-gratia payment as percentage of applicants' claimed amount in 2004-05

A. Arrears of wages (AW) at maximum payment of \$36,000

Approved payment as percentage of applicants' claimed amount for AW	Percentage of applicants
100%	75.09
90% or above	78.30
80% or above	81.30
70% or above	84.38
60% or above	87.15
50% or above	89.89
40% or above	93.08
30% or above	95.48
20% or above	97.74
10% or above	99.24
5% or above	99.73

B. Wages in lieu of notice (WILON) at maximum payment of \$22,500

Approved payment as percentage of applicants' claimed amount for WILON	Percentage of applicants
100%	95.91
90% or above	96.58
80% or above	97.40
70% or above	97.98
60% or above	98.48
50% or above	98.89
40% or above	99.36
30% or above	99.57
20% or above	99.78
10% or above	99.98

C. Severance payment (SP) at maximum payment of \$50,000 + 50% of excess entitlements

Approved payment as percentage of applicants' claimed amount for SP	Percentage of applicants
100%	67.60
90% or above	70.26
80% or above	72.66
70% or above	75.53
60% or above	78.06
50% or above	81.43

Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2000-01 to 2004-05

Figure 1.

Number of Applications Received by the Fund from 2000-01 to 2004-05

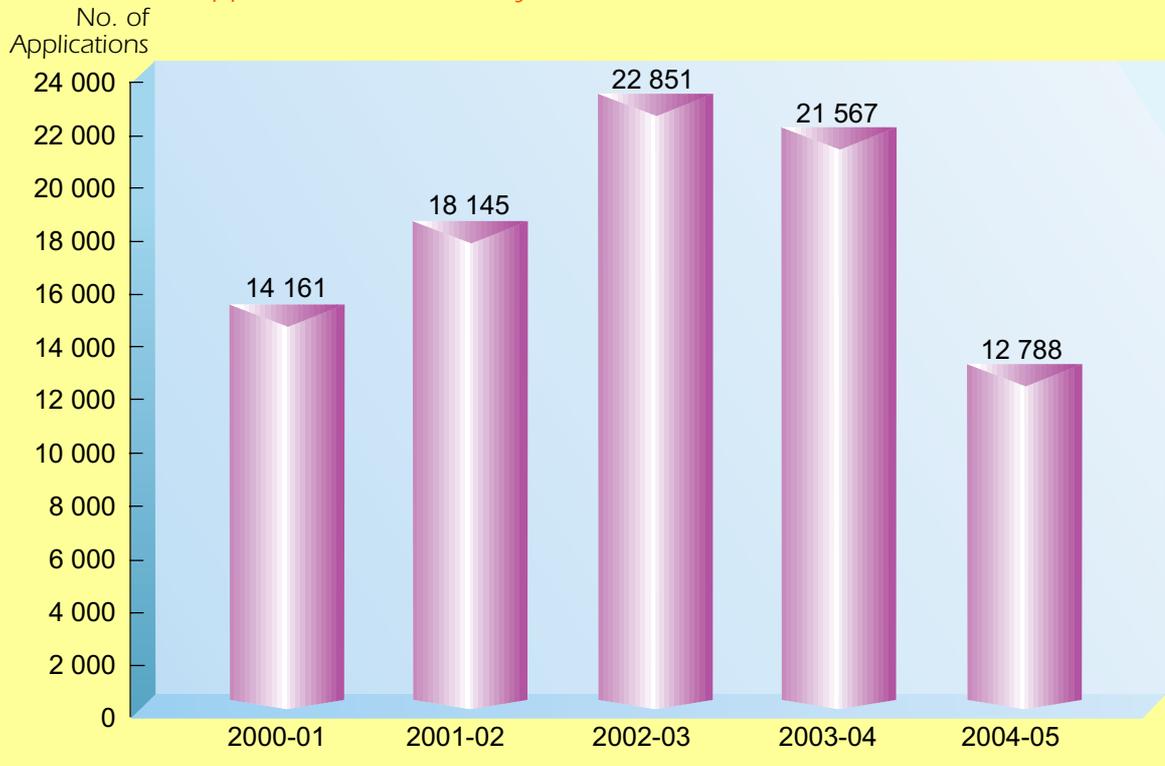


Figure 2.

First Three Industries/Trades with the Largest Number of Applications Received from 2000-01 to 2004-05

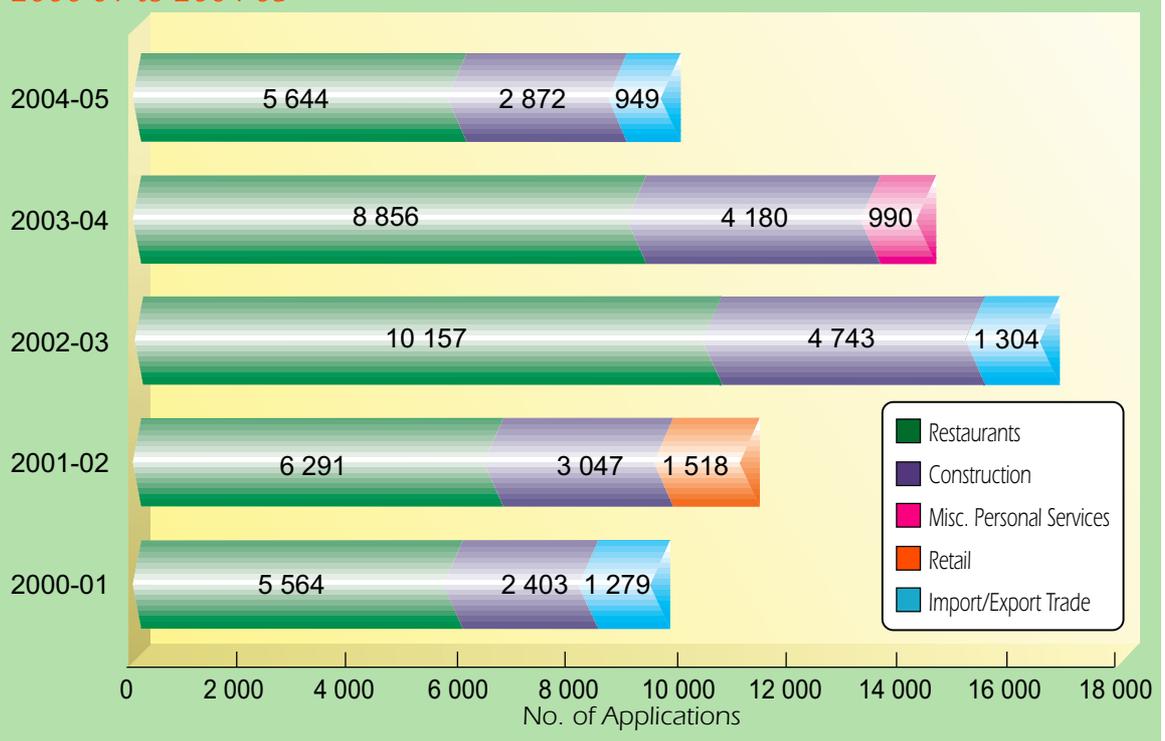


Figure 3.
Number of Applications and Amount of Ex-gratia Payment Approved from 2000-01 to 2004-05

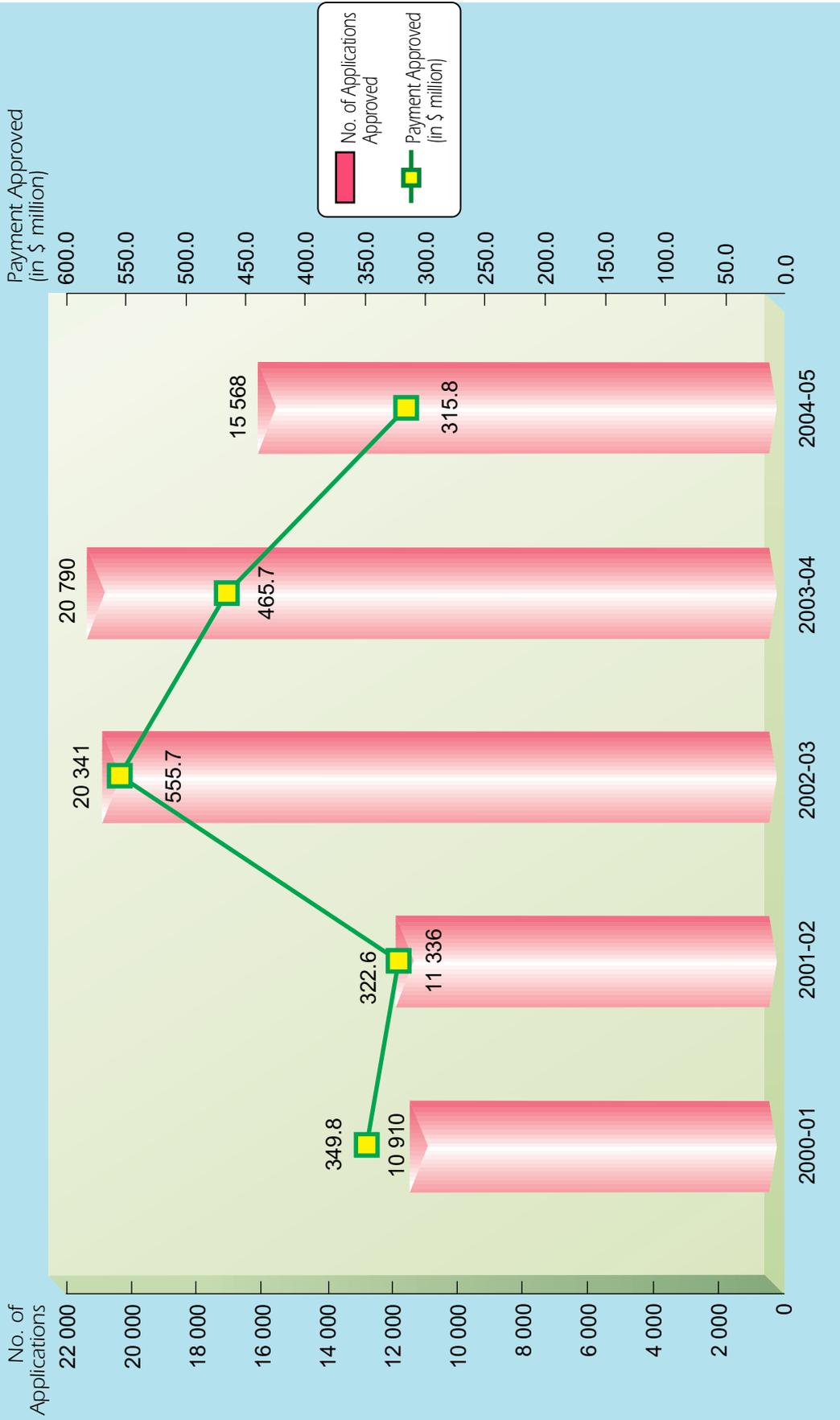


Figure 4.

Total Income and Expenditure of the Fund from 2000-01 to 2004-05

in \$ million

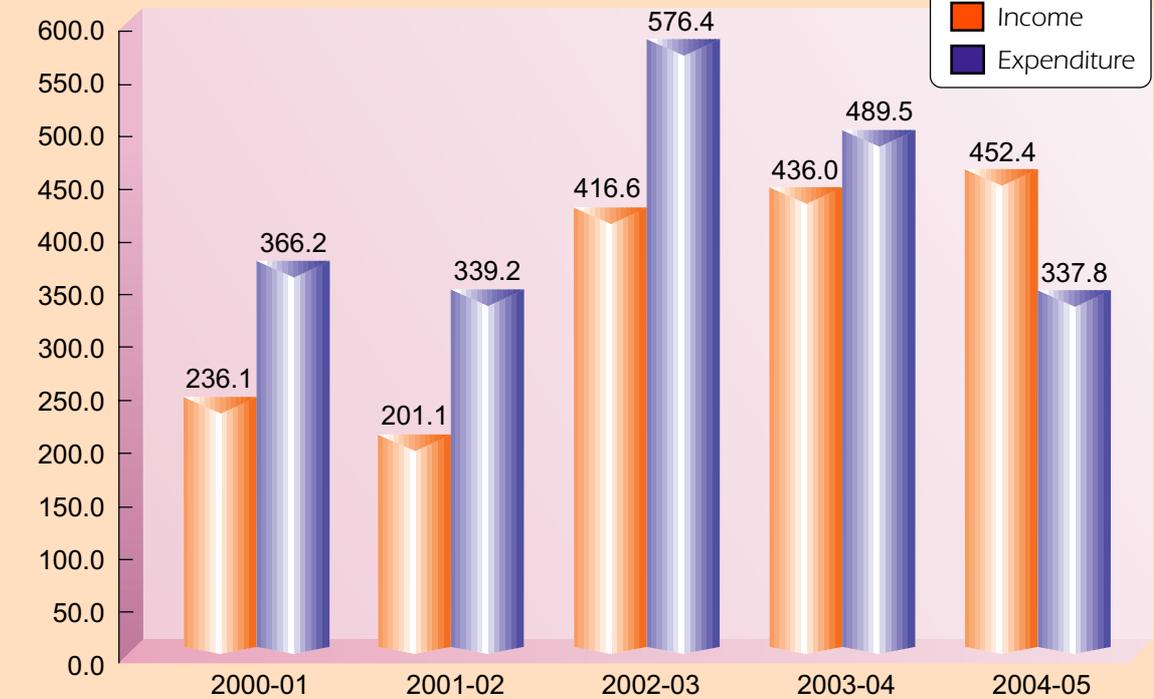


Figure 5.

Breakdown of Income and Expenditure of the Fund from 2000-01 to 2004-05

in \$ million

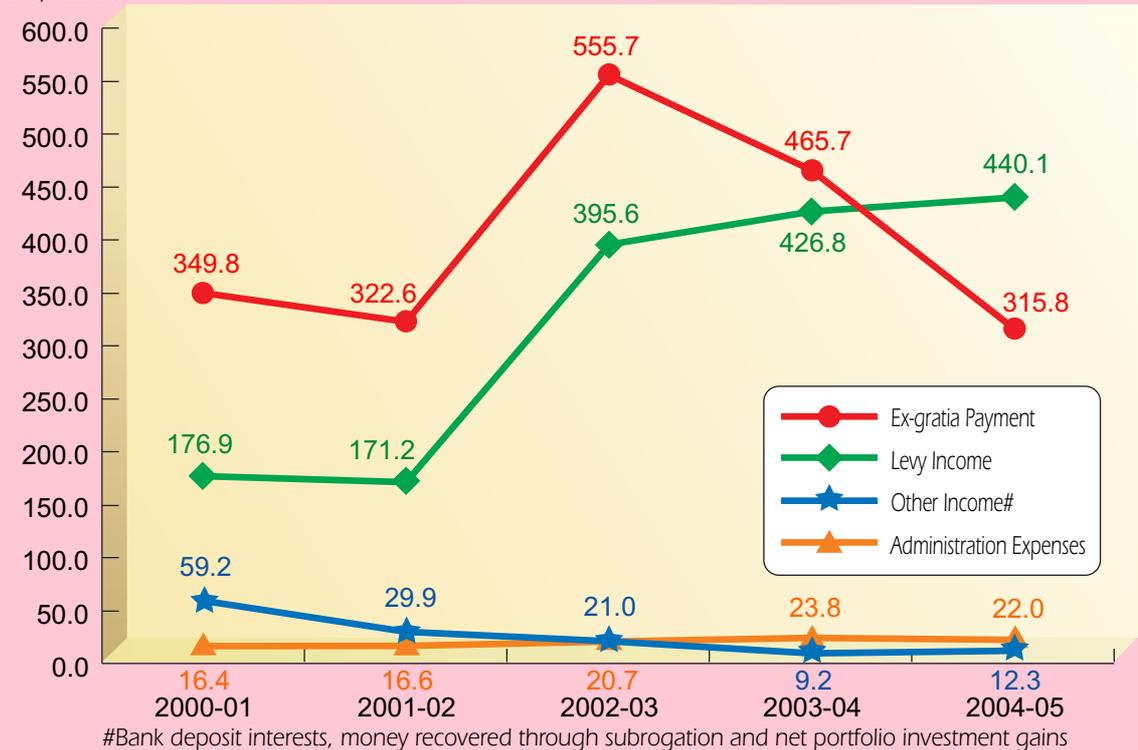
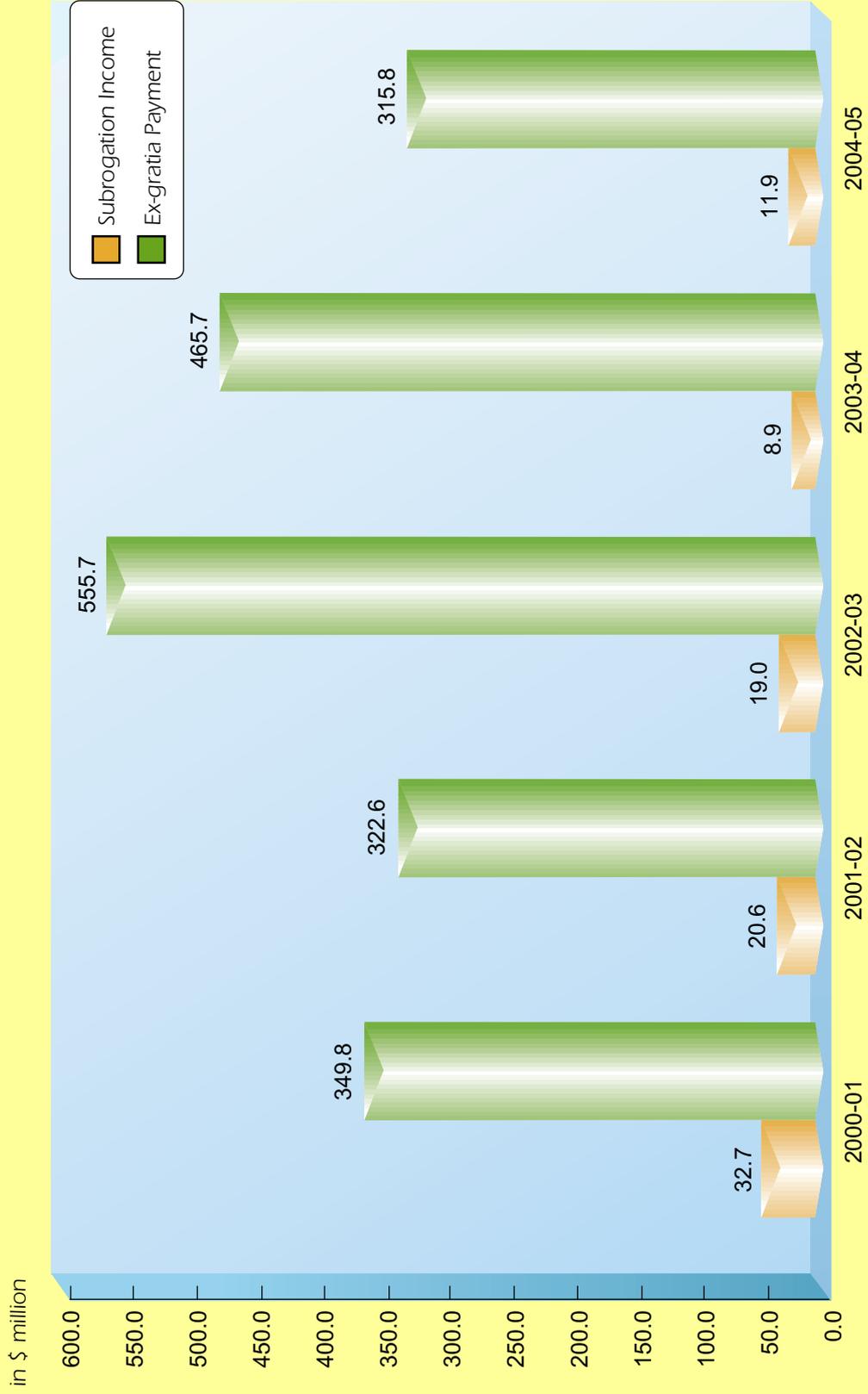
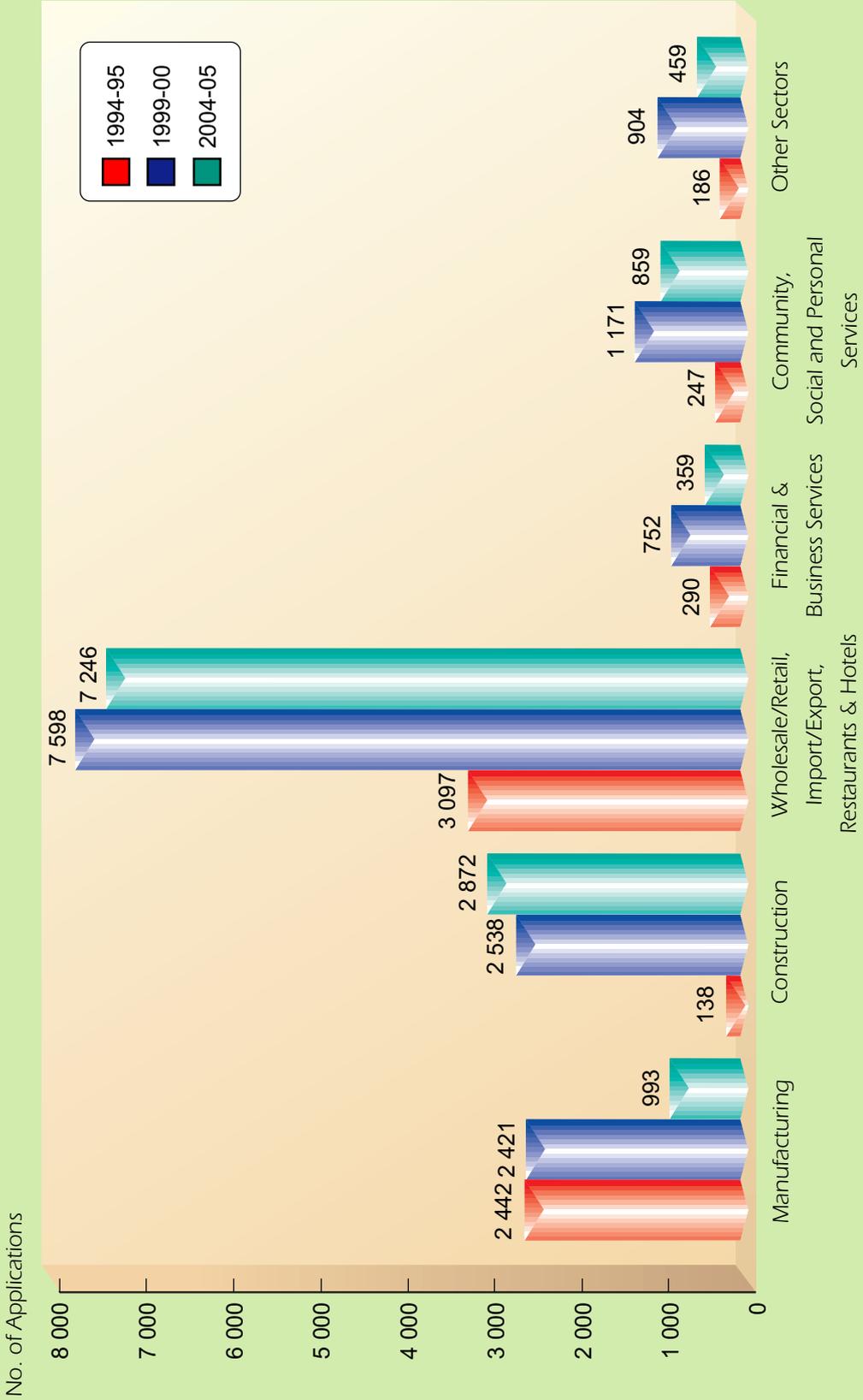


Figure 6.
Subrogation Income and Ex-gratia Payment of the Fund from 2000-01 to 2004-05



Analysis of applications received by economic sectors from 1994-95 to 2004-05





PROTECTION OF WAGES ON INSOLVENCY FUND

Report and Financial Statements
For the year ended 31 March 2005

PROTECTION OF WAGES ON INSOLVENCY FUND

Report and Financial Statements
For the year ended 31 March 2005

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STATEMENT OF CHANGES IN FUND AND RESERVES	4
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Deloitte.

德勤

AUDITORS' REPORT

TO THE MEMBERS OF
PROTECTION OF WAGES ON INSOLVENCY FUND BOARD (THE "BOARD")
(Established under the Protection of Wages on Insolvency Ordinance)

We have audited the financial statements on pages 2 to 9 which have been prepared in accordance with accounting principles generally accepted in Hong Kong.

Respective responsibilities of the board and auditors

The Protection of Wages on Insolvency Ordinance requires the Board to prepare financial statements of the Protection of Wages on Insolvency Fund (the "Fund"). In preparing the financial statements it is fundamental that appropriate accounting policies are selected and applied consistently.

It is our responsibility to form an independent opinion, based on our audit, on those financial statements and to report our opinion solely to you, as a body, in accordance with our agreed terms of engagement, and for no other purpose. We do not assume responsibility towards or accept liability to any other person for the contents of this report.

Basis of opinion

We conducted our audit in accordance with Statements of Auditing Standards issued by the Hong Kong Institute of Certified Public Accountants. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the Board in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Fund's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the financial statements are free from material misstatement. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements. We believe that our audit provides a reasonable basis for our opinion.

Opinion

In our opinion the financial statements give a true and fair view of the state of the Fund's affairs as at 31 March 2005 and of its surplus and cash flows for the year then ended and have been properly prepared in accordance with the Protection of Wages on Insolvency Ordinance.



Deloitte Touche Tohmatsu
Certified Public Accountants
Hong Kong
30 August 2005

PROTECTION OF WAGES ON INSOLVENCY FUNDSTATEMENT OF INCOME AND EXPENDITURE
FOR THE YEAR ENDED 31 MARCH 2005

	<u>NOTES</u>	<u>2005</u> HK\$	<u>2004</u> HK\$
INCOME			
Levy	3	440,099,300	426,753,500
Money recovered by subrogation		11,933,747	8,960,208
Interest income		411,814	282,742
		<u>452,444,861</u>	<u>435,996,450</u>
RECURRENT EXPENDITURE			
Claims	4	315,822,044	465,691,985
Supervision fee	5	19,762,842	22,417,717
Auditors' remuneration		42,000	41,800
Rates and building management charges		360,947	371,707
Insurance		7,270	6,802
Interest expense		625,168	5,096
Printing and stationery		50,590	50,002
Miscellaneous expenses		849,921	781,769
		<u>337,520,782</u>	<u>489,366,878</u>
CAPITAL EXPENDITURE	6	<u>276,392</u>	<u>116,061</u>
TOTAL EXPENDITURE		<u>337,797,174</u>	<u>489,482,939</u>
SURPLUS (DEFICIT) FOR THE YEAR		<u>114,647,687</u>	<u>(53,486,489)</u>

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF ASSETS AND LIABILITIES
AS AT 31 MARCH 2005

	<u>NOTES</u>	<u>2005</u> HK\$	<u>2004</u> HK\$
NON-CURRENT ASSET			
Property	7	27,474,677	27,474,677
CURRENT ASSETS			
Cash at banks		116,830,209	2,857,988
Levy receivable		35,311,250	39,688,750
Interest receivable		148,634	-
Sundry deposits		82,600	14,200
Sundry debtors		11,574	6,374
		<u>152,384,267</u>	<u>42,567,312</u>
CURRENT LIABILITIES			
Approved claims payable		13,444,892	16,696,702
Accrued operation expenses		44,730	48,820
Accrued supervision fee	5	20,000,000	22,200,000
		<u>33,489,622</u>	<u>38,945,522</u>
NET CURRENT ASSETS			
		<u>118,894,645</u>	<u>3,621,790</u>
		<u>146,369,322</u>	<u>31,096,467</u>
FINANCED BY			
Accumulated surplus (deficit)		79,725,594	(34,922,093)
General reserve	8	16,538,787	16,538,787
Building reserve	7	27,474,677	27,474,677
		<u>123,739,058</u>	<u>9,091,371</u>
NON-CURRENT LIABILITIES			
Government loan	9	22,000,000	22,000,000
Government loan interest payable		630,264	5,096
		<u>22,630,264</u>	<u>22,005,096</u>
		<u>146,369,322</u>	<u>31,096,467</u>

The financial statements on pages 2 to 9 were approved and authorised for issue by the Board on 30 August 2005 and are signed on its behalf by:



CHAIRMAN



BOARD MEMBER

PROTECTION OF WAGES ON INSOLVENCY FUNDSTATEMENT OF CHANGES IN FUND AND RESERVES
FOR THE YEAR ENDED 31 MARCH 2005

	Accumulated surplus (deficit) HK\$	General reserve HK\$	Building reserve HK\$	Total HK\$
Balance at 1 April 2003	18,564,396	16,538,787	27,474,677	62,577,860
Deficit for the year	(53,486,489)	-	-	(53,486,489)
Balance at 31 March 2004	(34,922,093)	16,538,787	27,474,677	9,091,371
Surplus for the year	114,647,687	-	-	114,647,687
Balance at 31 March 2005	<u>79,725,594</u>	<u>16,538,787</u>	<u>27,474,677</u>	<u>123,739,058</u>

PROTECTION OF WAGES ON INSOLVENCY FUND

CASH FLOW STATEMENT
FOR THE YEAR ENDED 31 MARCH 2005

	<u>2005</u> HK\$	<u>2004</u> HK\$
OPERATING ACTIVITIES		
Surplus (deficit) for the year	114,647,687	(53,486,489)
Adjustments for:		
Interest income	(411,814)	(282,742)
Interest expense	625,168	5,096
Operating cash flows before movements in working capital	114,861,041	(53,764,135)
Decrease (increase) in levy receivable	4,377,500	(41,100)
Increase in sundry deposits	(68,400)	-
(Increase) decrease in sundry debtors	(5,200)	2,000
(Decrease) increase in approved claims payable	(3,251,810)	456,564
Decrease in accrued operation expenses	(4,090)	(1,940)
(Decrease) increase in accrued supervision fee	(2,200,000)	3,200,000
NET CASH FROM (USED IN) OPERATING ACTIVITIES	<u>113,709,041</u>	<u>(50,148,611)</u>
INVESTING ACTIVITIES		
Interest received	263,180	286,464
Increase in fixed deposits with maturity over three months	(74,804,449)	-
CASH (USED IN) FROM INVESTING ACTIVITIES	<u>(74,541,269)</u>	<u>286,464</u>
CASH FROM FINANCING ACTIVITY		
New government loan obtained	-	22,000,000
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	39,167,772	(27,862,147)
CASH AND CASH EQUIVALENTS AT BEGINNING OF THE YEAR	<u>2,857,988</u>	<u>30,720,135</u>
CASH AND CASH EQUIVALENTS AT END OF THE YEAR, REPRESENTED BY		
Cash at banks	116,830,209	2,857,988
Less: Cash at bank with maturity over three months	(74,804,449)	-
Cash at banks with maturity of three months or less	<u>42,025,760</u>	<u>2,857,988</u>

PROTECTION OF WAGES ON INSOLVENCY FUNDNOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 MARCH 2005

1. GENERAL

The Protection of Wages on Insolvency Fund (the "Fund") was established by the Hong Kong Government under the Protection of Wages on Insolvency Ordinance of Hong Kong in 1985 for the purpose of providing ex-gratia payments to employees whose employers have become insolvent.

The fund consists principally of moneys received from the Commissioner of Inland Revenue being an annual levy collected on each Business Registration Certificate issued.

2. SIGNIFICANT ACCOUNTING POLICIES

The financial statements have been prepared under the historical cost convention and in accordance with accounting principles generally accepted in Hong Kong as modified for the accounting of property, plant and equipment stated below. The principal accounting policies adopted are as follows:

Income recognition

Levy income is recognised when the amounts are received by the Inland Revenue Department.

Money recovered by way of subrogation is recognised when the amounts are received.

Interest income is accrued on a time basis, by reference to the principal outstanding and at the interest rate applicable.

Property, plant and equipment

The Fund has taken the advantage of the exemption under section 2 of Statement of Standard Accounting Practice 17 "Property, plant and equipment" issued by the Hong Kong Institute of Certified Public Accountants. Accordingly, no depreciation has been provided on the property. Capital expenditure other than for the acquisition of properties incurred during an accounting period is charged entirely to the statement of income and expenditure in that period.

Recognition of claims

Claims are accounted for on an accrual basis upon approval by the Commissioner for Labour.

Operating leases

Rentals payable under operating leases are charged to the statement of income and expenditure on a straight-line basis over the relevant lease term.

Retirement benefits costs

Payments to defined contribution retirement benefit plans are charged as an expense as they fall due.

PROTECTION OF WAGES ON INSOLVENCY FUND

3. LEVY

In accordance with the provisions of Sections 7 and 21 of the Business Registration Ordinance and Section 6 in Part III of the Protection of Wages on Insolvency Ordinance, a levy is imposed at the rate of HK\$600 and HK\$1,800 respectively on those one-year and three-year Business Registration Certificates issued on or after 16 May 2002.

4. CLAIMS

In accordance with the provisions of Sections 16(1), (2) and (3) and Section 18(1) in Part V of the Protection of Wages on Insolvency Ordinance, the Commissioner for Labour may make ex-gratia payments to applicants out of the Fund of the following amounts:

Wages

Not exceeding HK\$36,000, being wages for services rendered not more than 4 months prior to an applicant's last day of service;

Wages in lieu of notice

Not exceeding the equivalent of 1 month's wages of the applicant or HK\$22,500, whichever is the lesser, which became due not more than 6 months prior to the date of application;

Severance payment

Not exceeding the aggregate of HK\$50,000 and half of that part of the applicant's entitlement in excess of HK\$50,000, being severance payment, the liability for payment of which arose not more than 6 months prior to the date of application.

5. SUPERVISION FEE

In accordance with the provisions of Section 14 in Part IV of the Protection of Wages on Insolvency Ordinance, the Financial Secretary may determine a supervision fee, which shall be charged against the income of the Fund, at any time determined by him. An agreement has been reached between the Protection of Wages on Insolvency Fund Board (the "Board") and the Hong Kong Government that the fee will be two-thirds of the Government's cost of administration in respect of the Fund. The Board however reserves its right of re-negotiation.

6. CAPITAL EXPENDITURE

	<u>2005</u> HK\$	<u>2004</u> HK\$
Office equipment and fixtures	276,392	116,061

PROTECTION OF WAGES ON INSOLVENCY FUND

7. PROPERTY

This represents the total cost of purchase of the Board's office premises situated in Hong Kong which is held under long lease. The cost was funded from an appropriation from the Accumulated Surplus in the year of purchase. The appropriation was credited to the Building Reserve Account.

8. GENERAL RESERVE

Levy collected and interest received prior to the establishment of the Protection of Wages on Insolvency Fund Board were set aside under the General Reserve Account.

9. GOVERNMENT LOAN

The amount is unsecured, bearing interest at a pre-determined rate and is repayable by 18 equal half-yearly instalments commencing 1 April 2007. The amount has been fully repaid subsequent to balance sheet date.

10. TAXATION

The Fund is exempt from Hong Kong taxation.

11. OPERATING LEASE COMMITMENTS

Lease payments under an operating lease paid during the year amounted HK\$110,400 (2004: HK\$55,200).

At 31 March 2005, the Fund had commitments for future minimum lease payments under non-cancellable operating leases in respect of rented premises, as follows:

	<u>2005</u> HK\$	<u>2004</u> HK\$
Within one year	144,900	9,200
In the second to fifth year inclusive	55,200	-
	<u>200,100</u>	<u>9,200</u>

Operating lease payments represent rentals payable by the Fund for its rented premises. Leases are negotiated for terms of two years on fixed monthly rentals.

PROTECTION OF WAGES ON INSOLVENCY FUND

12. CONTINGENT LIABILITIES

As at the balance sheet date, the Fund had contingent liabilities not provided for in these financial statements as follows:

	<u>2005</u> HK\$	<u>2004</u> HK\$
Claims received but not yet approved	<u>241,625,000</u>	<u>460,214,000</u>
