

Annual Report of
The Protection of Wages on
Insolvency Fund Board

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CHAIRMAN'S FOREWORD

I have great pleasure in presenting this annual report of the Protection of Wages on Insolvency Fund Board covering the 2005-06 financial year. On the one hand, the number of applications received by the Fund has continued to subside during the year. On the other hand, the Fund has made great strides in preventing and detecting abuse cases.

Riding on the general economic upturn, the Fund recorded a significant drop of 32% in the number of applications in 2005-06, with 8 751 applications received compared with 12 788 in the previous year. A total of 11 967 applications were processed during the year. Of these, 9 819 applications were approved, with the total amount of ex-gratia payment made amounting to \$191.9 million. Through the hard work of the staff in the Wage Security Division of the Labour Department (LD), the time required to process applications and make payment has been shortened from 4 weeks in the preceding year to 3.7 weeks this year.

Charged with the mission of administering the Fund which provides timely relief to assist employees whose employers are genuinely insolvent, the Board always accords priority to preventing abuses of the Fund. To this end, 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), has put in place an effective mechanism to forestall and tackle fraudulent claims. Through stringent vetting procedures, 18% of the applications involving claims of \$86.8 million were either rejected or withdrawn in the year. In September 2005, seven applicants were fined a total of \$30,000 for providing false information in their applications for ex-gratia payment. This was the first time that the LD had launched a prosecution under the Protection of Wages on Insolvency Ordinance, sending a clear message to the public that any attempt to defraud the Fund would not be tolerated.

The Board also met the Permanent Secretary for Economic Development and Labour (Labour), Mr. Matthew CHEUNG Kin-chung, JP, twice during the year to deliberate further measures to safeguard the Fund, particularly in relation to applications from the catering trade which accounts for the largest share of the Fund's applications and payment. We have pledged full support to the proactive and pre-emptive measures launched by the Administration to prevent employers from shifting their wage liabilities to the Fund. There are encouraging signs that such all-out efforts have paid off.

For the catering trade, the Fund only received 2 923 applications in 2005-06, down 48% over the figure of 5 644 in 2004-05. In particular, the second half of 2005-06 recorded a sharp decrease of 78% compared with the same period last year. Regarding all trades and industries in general, the proportion of employees with wages in arrears exceeding two months also dropped from 25% in 2004-05 to 22% in 2005-06.

It is gratifying to note that the Fund registered a surplus of \$286.4 million for the 2005-06 financial year. This is the second surplus of the Fund following seven years of deficits recorded after the Asian financial crisis in 1997. The accumulated surplus of the Fund stood at \$410.1 million as at the end of the financial year. While we are fully confident in the ability of the Fund to sustain a healthy financial position, we must not be complacent. Indeed, the Fund has seen difficult time in the past years when an upsurge in claims payment exhausted its record reserve of over \$900 million. Therefore, in collaboration with the LD, the Board will continue to monitor closely the financial position of the Fund.

I am honoured to take over the chairmanship of the Board from Mr. HO Sai-chu, SBS, JP this April. On behalf of the Board, I would like to thank Mr. Ho for his sterling contribution as Chairman and various Government departments for the assistance they have all along rendered in the operation of the Fund. These include the LD, the LAD, the ORO, the CCB of the Hong Kong Police Force and the Inland Revenue Department. Looking forward, I am sure that with the commitment and dedication of all our Board members and concerned departments, our Fund is well prepared to meet the challenges ahead in providing a safety net for needy workers in insolvency cases and contributing to Hong Kong's harmonious labour relations.

Clement CHEN Cheng-jen, JP

Chairman

Protection of Wages on Insolvency Fund Board

September 2006

MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2005-06

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 insolvency matters

Secretary

Senior Labour Officer, Wage Security Division of the Labour Department

Group Photo of the Protection of Wages on Insolvency Fund Board 2005-06



Rear row from the left:

Mr. Alan WONG Kwok-lun, JP

Assistant Commissioner,
Labour Department

Mr. Michael LI Hon-shing, BBS, JP

Representing employers

Mr. CHEUNG Pak-chi, MH

Representing employees

Mr. MA Ho-fai, JP

Representing employers

Mr. WAN Koon-sun, MH

Representing employees

Miss Mabel LI Po-yi

Secretary

Front row from the left:

Miss Betty CHAN King-wah

Assistant Principal Legal Aid Counsel,
Legal Aid Department

Ms. LAM Shuk-ye, BBS

Representing employees

Mr. HO Sai-chu, SBS, JP

Chairman

Mr. Clement CHEN Cheng-jen, JP

Representing employers

Ms. May LEE Mei-ye

Assistant Official Receiver,
Official Receiver's Office

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 2006.

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. Of the members, 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 an annual levy of \$600 on each business registration certificate. The levy is collected by the Inland Revenue Department when the business registration fee is paid.

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, 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 require employers and applicants to submit wage and employment records and conduct interviews with them.

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 2005-06, 8 751 applications involving claims for ex-gratia payment of \$326.3 million were received from employees in 1 159 suspected insolvency cases. Detailed breakdown of the applications is at **Appendix I**.

Of the 1 159 suspected insolvency cases, 1 072 involved less than 20 employees, and 6 involved 100 employees or more. The remaining 81 cases involved 20 to 99 employees.

During the year, the restaurant and catering trade recorded the largest number of applications, with 2 923 applications involving a total claim of \$55.7 million. This was followed by the construction industry with 2 033 applications and a total claim of \$57.1 million, and the miscellaneous personal services trade with 508 applications and a total claim of \$9.4 million. These three trades accounted for 62.4% of all applications and 37.4% of the total amount claimed.

Out of 8 751 applicants, 8 009 applied for ex-gratia payment on arrears of wages, 4 790 applied for payment on wages in lieu of notice and 2 487 applied for payment on severance payment. Breakdowns of these applications are at **Appendices II, III and IV**.

Applications processed

A total of 9 819 applications were approved during the year, resulting in payment amounting to \$191.9 million. Out of these, a total payment of \$24.8 million was made to 1 405 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 74.1% of applicants on arrears of wages, 94.3% of applicants on wages in lieu of notice, and 62.0% of applicants on severance payment.

The Commissioner for Labour rejected 356 applications involving claims totalling \$28.1 million. Among the cases rejected, 156 applications were not eligible for the claims and 99 applications produced insufficient evidence. The grounds rendering ineligibility of the claims were due to applicants' status as registered company directors, claims outside the 6-month qualifying period or claims without legal backing.

A total of 1 792 applications involving claims amounting to \$58.7 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 three times during the year to discuss matters relating to the administration of the Fund. These included examination of its performance, financial statements and projection of income and expenditure as well as discussion of the strategy and measures to prevent abuse of the Fund. In addition, the Board reviewed four 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 \$485.2 million and paid out a total of \$191.9 million in ex-gratia payment. The Fund registered a surplus of \$286.4 million, as compared with a surplus of \$114.7 million in the previous financial year.

The Board secured a standby loan of \$695 million from the Government in November 2002 in order to enable the Fund to tide over its short-term cash flow problem. A drawdown in the sum of \$22 million was made in March 2004. With the improved financial position of the Fund, the Board repaid in full to the Government the loan together with accrued interest in April 2005. As at 31 March 2006, the Fund's accumulated surplus stood at \$410.1 million.

A copy of the auditors' report and the audited financial statements for the year ended 31 March 2006 is at **Appendix IX**.

ACTIVITIES HIGHLIGHT

Measures to prevent abuse of the Fund

Both the Board and the Labour Department attach great importance to preventing any abuse of the Fund. In 2005, against the spate of restaurants going out of business without discharging their obligations on wage payments, the Labour Department, in consultation with the Board, launched a proactive and pre-emptive strategy to clamp down at source on employers evading their wage liabilities, thus preventing wage defaults from developing into claims on the Fund.



The Permanent Secretary for Economic Development and Labour (Labour), Mr. Matthew CHEUNG Kin-chung, JP, discussed with the Board at its meeting held on 15 July 2005.

This multi-pronged strategy comprised the following measures:

- raising the maximum penalty for wage offences under the Employment Ordinance on 30 March 2006, from \$200,000 to \$350,000 and imprisonment from one year to three years
- stepping up enforcement and prosecution against employers who wilfully and without reasonable excuse commit wage offences
- targeting problematic restaurants to proactively forestall unscrupulous employers from evading their wage liabilities and abusing the Fund
- strengthening intelligence gathering by employing veteran former police officers with criminal investigation experience and establishing with trade unions an early warning system on wage defaults in the catering industry
- enhancing publicity and promotion on prompt payment of wages and good management practices in the catering industry

Publicity leaflets emphasizing to employers the seriousness of wage offences and encouraging employees to make prompt reports of wage defaults were disseminated at various channels.



Over 250 employers and human resources managers from the catering industry attended a large-scale seminar on good people management on 11 November 2005.

Achievements of the inter-departmental Task Force

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 of the Fund by employers and employees.

As at 31 March 2006, the Labour Department referred 89 cases to the Commercial Crime Bureau and the Official Receiver's Office for investigation. The Commercial Crime Bureau arrested 55 suspects in nine 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.

Prosecutions under the Protection of Wages on Insolvency Ordinance

Under section 26 of the Protection of Wages on Insolvency Ordinance, any person who knowingly or recklessly makes a false statement or provides a false document for the purposes of the Ordinance commits an offence and is liable to a maximum fine of \$50,000 and imprisonment for three months. In September 2005, seven employees of two Chinese restaurants were convicted under the Ordinance for providing false information in their applications for ex-gratia payment from the Fund. They were fined a total of \$30,000 at the Kowloon City Magistrates' Courts.

Appendices

Operating results of the Protection of Wages on Insolvency Fund in 2005-06

I. Breakdown of applications by result

(1)	No. of cases received		1 159					
(2)	No. of applications							
(i)	b/f last period		5 816					
	received this period		8 751					
	reconsidered this period		187					
			14 754					
(ii)	processed		11 967					
	<i>approved</i>		9 819					
	<i>refused</i>		356					
	<i>withdrawn</i>		1 792					
	outstanding		2 731					
	put aside*		56					
			14 754					
(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				241,625			
	received this period	154,210	+	44,595	+	127,477	=	326,282
	reconsidered this period	5,261	+	1,412	+	4,975	=	11,648
								579,555
(ii)	approved	112,581	+	27,493	+	51,864	=	191,938
	screened							169,565
	refused							28,094
	withdrawn							58,709
	outstanding							131,249
	put aside* } }							579,555
(4)	No. of applications seeking review by the Fund Board							4

II. Presentation of petition in relation to applications approved

(1)	No. of applications where a winding-up petition has been made		7 530
(2)	No. of applications where a bankruptcy petition has been made		884
(3)	No. of applications dealt with under S.18(1) of the Protection of Wages on Insolvency Ordinance		1 245
(4)	No. of applications dealt with under S.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance		160
			9 819

III. Breakdown of cases by employment size

(1)	Less than 20 employees		1 072
(2)	20 ~ 49 employees		58
(3)	50 ~ 99 employees		23
(4)	100 or more employees		6
			1 159

* 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>	4	(2)	\$346,100.05
<i>Division 3</i>	<i>Manufacturing</i>			
Sub-group				
311-312	Food	49	(9)	\$1,781,547.25
320-322	Wearing apparel (excluding footwear)	320	(25)	\$17,272,001.75
323	Leather and leather products (excluding footwear and wearing apparel)	2	(1)	\$218,488.58
324	Footwear (excluding rubber, plastic and wooden footwear)	17	(3)	\$1,113,644.78
325-329	Textiles	12	(5)	\$676,323.55
332	Furniture and fixtures (excluding primarily of metal)	6	(3)	\$297,579.06
341	Paper and paper products	11	(5)	\$1,053,454.16
342	Printing, publishing and allied industries	91	(11)	\$8,498,312.01
356	Plastic products	33	(7)	\$3,955,110.81
380-381	Fabricated metal products (excluding machinery and equipment)	25	(3)	\$4,543,283.45
383	Radio, television & communications equipment and apparatus	1	(1)	\$31,225.80
384	Electronic parts and components	19	(5)	\$1,944,768.48
385	Electrical appliances & houseware and electronic toys	19	(3)	\$2,036,456.08
386-387	Machinery, equipments, apparatus, parts and components, not elsewhere classified	9	(2)	\$290,153.31
389	Professional & scientific, measuring & controlling equipment, not elsewhere classified, and photographic & optical goods	162	(12)	\$25,446,285.15
390-391	Manufacturing industries, not elsewhere classified	114	(12)	\$9,667,766.97
<i>Division 4</i>	<i>Electricity, Gas and Water</i>	60	(5)	\$3,630,001.97
<i>Division 5</i>	<i>Construction</i>	2 033	(296)	\$57,091,350.70
<i>Division 6</i>	<i>Wholesale, Retail and Import/Export Trades, Restaurants and Hotels</i>			
Sub-group				
611-612	Wholesale	153	(28)	\$6,656,197.24
621	Retail	353	(67)	\$14,100,743.55
631-632	Import/Export	488	(142)	\$35,440,121.56
641	Restaurants	2 923	(174)	\$55,724,023.70
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 Communications</i>			
Sub-group				
711	Land passenger transport	15	(6)	\$299,749.20
712	Land freight transport	471	(54)	\$17,562,712.48
713	Supporting services to land transport	8	(5)	\$365,680.25
714	Ocean and coastal water transport	15	(2)	\$233,771.24
716	Supporting services to water transport	129	(3)	\$9,287,409.31
718	Services incidental to transport	15	(6)	\$416,635.49
721	Storage	10	(3)	\$189,610.87
732	Telecommunications	24	(7)	\$1,538,460.68
<i>Division 8</i>	<i>Financing, Insurance, Real Estate and Business Services</i>			
Sub-group				
812	Finance and investment companies	33	(9)	\$2,408,059.94
813	Stock, commodity and bullion brokers, exchanges and services	13	(1)	\$1,081,973.09
819	Financial institutions, not elsewhere classified	7	(1)	\$133,288.28
821	Insurance	1	(1)	\$3,402.20
831	Real estate	1	(1)	\$5,500.00
833	Business services (excluding rental of machinery and equipment)	308	(84)	\$21,128,897.04
<i>Division 9</i>	<i>Community, Social and Personal Services</i>			
Sub-group				
921	Sanitary and similar services	21	(5)	\$442,824.66
931	Education services	110	(14)	\$3,297,830.71
933	Medical, dental, other health and veterinary services	29	(10)	\$1,017,568.81
935	Business, professional and labour associations	7	(6)	\$1,724,706.40
939	Miscellaneous social and related community services	13	(2)	\$74,777.25
940-941	Motion pictures and other entertainment services	24	(6)	\$651,280.50
942	Libraries, museums, gardens and cultural services	1	(1)	\$149,000.00
949	Miscellaneous amusement & recreational services	44	(9)	\$1,533,769.17
951	Repair services	24	(9)	\$403,252.84
952	Laundry, dry cleaning and garment services	15	(3)	\$1,137,211.67
959	Miscellaneous personal services	508	(89)	\$9,377,176.40
	Total :	8 751	(1 159)	\$326,281,888.44

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

Breakdown of applications for ex-gratia payment on arrears of wages received in 2005-06

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	742	8.48
\$8,000* or less	3 306	37.78
\$8,001 ~ \$18,000	2 516	28.75
\$18,001 ~ \$24,000	689	7.87
\$24,001 ~ \$27,000	225	2.57
\$27,001 ~ \$30,000	174	1.99
\$30,001 ~ \$33,000	159	1.82
\$33,001 ~ \$36,000 [#]	137	1.57
\$36,001 ~ \$39,000	94	1.07
More than \$39,000	709	8.10
Total :	8 751	100.00

B. By period 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	1 032	11.79
Half month or less	1 029	11.76
More than 1/2 month to 1 month	2 071	23.67
More than 1 month to 2 months	2 734	31.24
More than 2 months to 3 months	856	9.78
More than 3 months to 4 months	376	4.30
More than 4 months	653	7.46
Total :	8 751	100.00

* Preferential limit under the Companies Ordinance and the Bankruptcy 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 employer 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 2005-06

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	3 961	45.26
\$2,000* or less	1 307	14.94
\$2,001 ~ \$6,000	1 453	16.60
\$6,001 ~ \$10,000	899	10.27
\$10,001 ~ \$15,000	604	6.90
\$15,001 ~ \$22,500 [#]	319	3.65
\$22,501 ~ \$25,000	60	0.69
More than \$25,000	148	1.69
Total :	8 751	100.00

B. By notice period

Notice period	No. of applicants	Percentage
No entitlement/Not claimed	3 961	45.26
1 day ~ 7 days	2 326	26.58
8 days ~ 14 days	57	0.65
15 days	100	1.14
16 days ~ less than 1 month	167	1.91
1 month* [#]	2 081	23.78
More than 1 month	59	0.68
Total :	8 751	100.00

* Preferential limit under the Companies Ordinance and the Bankruptcy 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 employer 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.

Breakdown of applications for ex-gratia payment on severance payment # received in 2005-06

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	6 264	71.58
\$8,000* or less	233	2.66
\$8,001 ~ \$36,000	1 115	12.74
\$36,001 ~ \$50,000	299	3.42
\$50,001 ~ \$80,000	391	4.47
\$80,001 ~ \$110,000	193	2.20
\$110,001 ~ \$140,000	94	1.07
\$140,001 ~ \$170,000	57	0.65
\$170,001 ~ \$200,000	28	0.32
\$200,001 ~ \$250,000	37	0.42
\$250,001 ~ \$300,000	14	0.16
\$300,001 ~ \$350,000	13	0.15
\$350,001 ~ \$370,000	4	0.05
\$370,001 ~ \$390,000	5	0.06
More than \$390,000	4	0.05
Total :	<u>8 751</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	6 290	71.88
2 ~ 4.99 years	1 074	12.27
5 ~ 5.99 years	203	2.32
6 ~ 6.99 years	159	1.82
7 ~ 7.99 years	155	1.77
8 ~ 8.99 years	175	2.00
9 ~ 9.99 years	91	1.04
10 ~ 14.99 years	378	4.32
15 ~ 19.99 years	139	1.59
20 ~ 24.99 years	46	0.53
25 ~ 29.99 years	26	0.30
30 ~ 34.99 years	9	0.10
35 ~ 38.99 years	2	0.02
39 ~ 40.99 years	2	0.02
41 ~ 42.99 years	0	0.00
43 years' service and over	2	0.02
Total :	<u>8 751</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 Companies Ordinance and the Bankruptcy 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 employer during the winding-up/bankruptcy proceedings.

Analysis of ex-gratia payment approved in 2005-06

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
Not claimed/Not approved	780	7.94
\$4,000 or less	1 724	17.56
\$4,001 ~ \$8,000	2 291	23.33
\$8,001 ~ \$10,000	845	8.60
\$10,001 ~ \$12,000	754	7.68
\$12,001 ~ \$14,000	529	5.39
\$14,001 ~ \$16,000	481	4.90
\$16,001 ~ \$18,000	332	3.38
\$18,001 ~ \$28,000	1 013	10.32
\$28,001 ~ \$36,000 [#]	1 070	10.90
Total :	9 819	100.00

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

Amount	No. of applicants	Percentage
Not claimed/Not approved	4 035	41.09
\$2,000 or less	2 387	24.31
\$2,001 ~ \$3,000	965	9.83
\$3,001 ~ \$4,000	630	6.42
\$4,001 ~ \$5,000	230	2.34
\$5,001 ~ \$6,000	186	1.89
\$6,001 ~ \$10,000	589	6.00
\$10,001 ~ \$22,500 [†]	797	8.12
Total :	9 819	100.00

C. Analysis of payment approved for severance payment

Amount	No. of applicants	Percentage
Not claimed/Not approved	7 374	75.10
\$8,000 or less	880	8.96
\$8,001 ~ \$22,000	676	6.88
\$22,001 ~ \$36,000	406	4.14
\$36,001 ~ \$50,000	229	2.33
\$50,001 ~ \$80,000	193	1.97
\$80,001 ~ \$110,000	36	0.37
\$110,001 ~ \$140,000	20	0.20
\$140,001 ~ \$170,000	5	0.05
\$170,001 ~ \$200,000	0	0.00
\$200,001 ~ \$210,000	0	0.00
\$210,001 ~ \$220,000 [*]	0	0.00
Total :	9 819	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.

Analysis of approved ex-gratia payment as percentage of applicants' claimed amount in 2005-06

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%	74.14
90% or above	77.68
80% or above	80.76
70% or above	83.64
60% or above	86.50
50% or above	88.89
40% or above	91.28
30% or above	93.24
20% or above	96.18
10% or above	98.36
5% or above	99.77

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%	94.28
90% or above	95.22
80% or above	96.20
70% or above	96.94
60% or above	97.64
50% or above	98.12
40% or above	98.77
30% or above	99.90
20% or above	99.95
10% or above	100.00

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

Approved payment as percentage of applicants' claimed amount for SP	Percentage of applicants
100%	61.95
90% or above	64.35
80% or above	66.55
70% or above	69.56
60% or above	72.85
50% or above	75.94

Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2001-02 to 2005-06

Figure 1.

Number of Applications Received by the Fund from 2001-02 to 2005-06

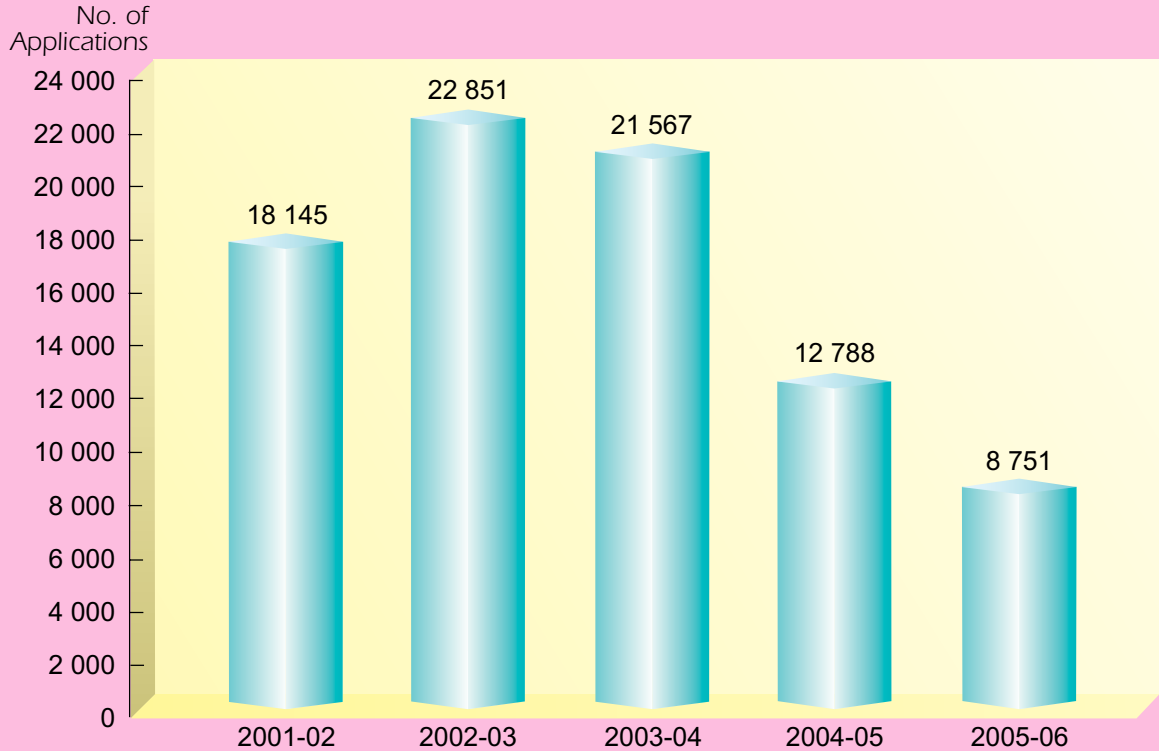


Figure 2.

First Three Industries with the Largest Number of Applications Received from 2001-02 to 2005-06

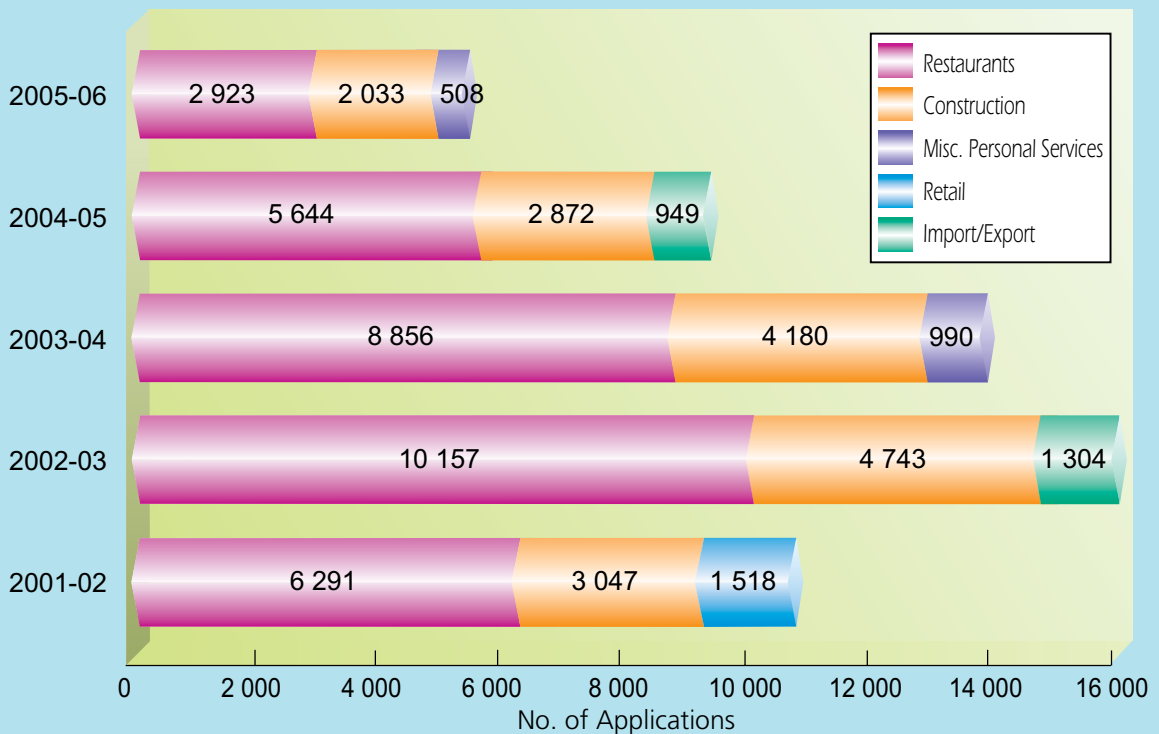


Figure 3.
Number of Applications and Amount of Ex-gratia Payment Approved from 2001-02 to 2005-06

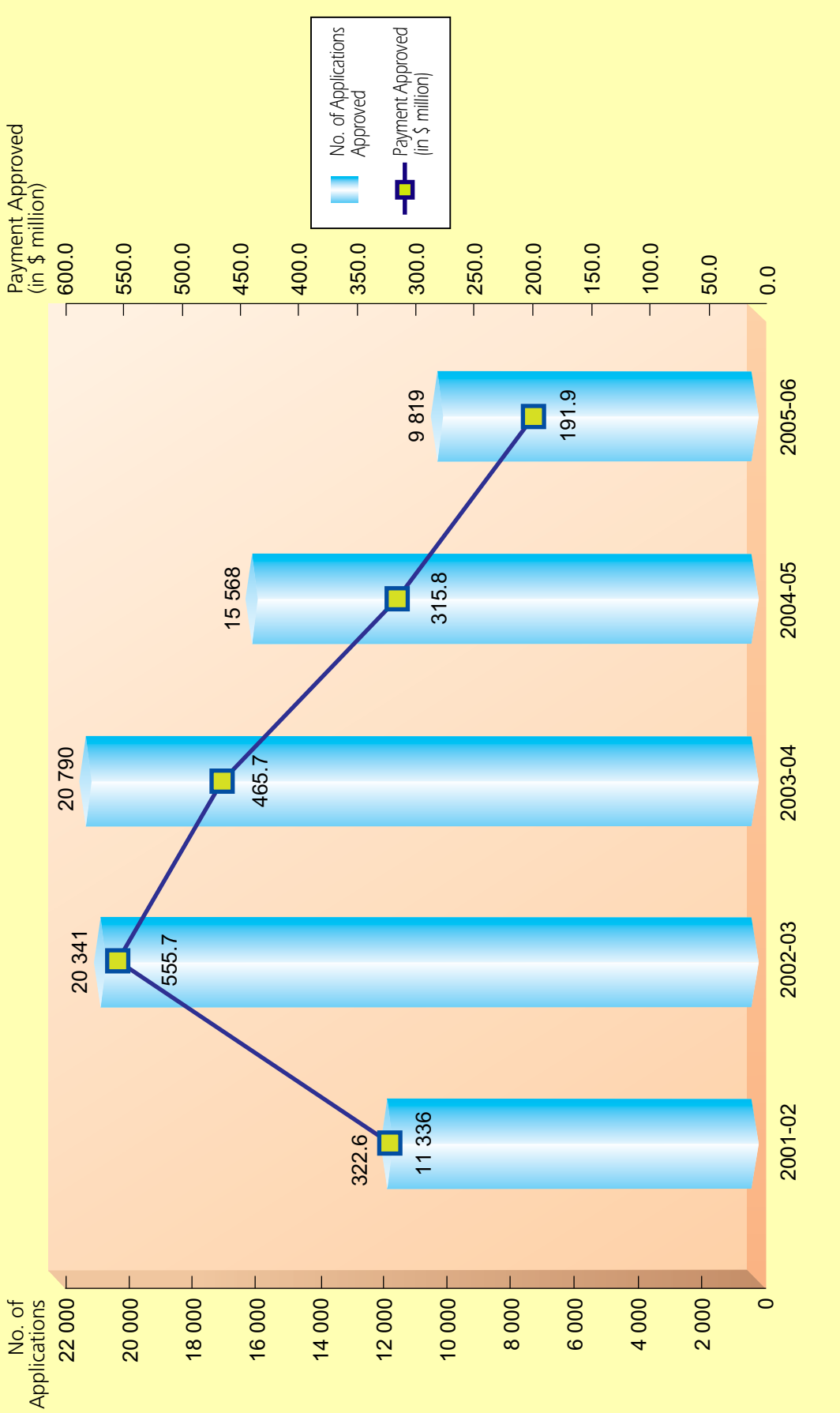


Figure 4.

Total Income and Expenditure of the Fund from 2001-02 to 2005-06

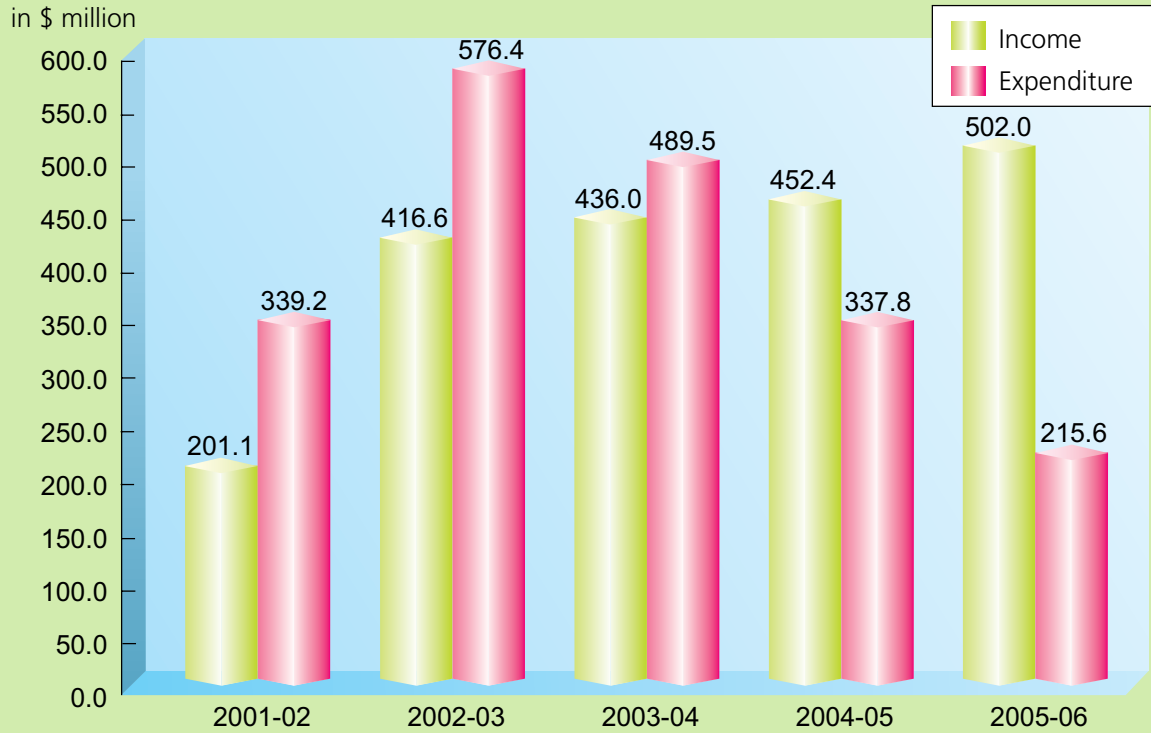


Figure 5.

Breakdown of Income and Expenditure of the Fund from 2001-02 to 2005-06

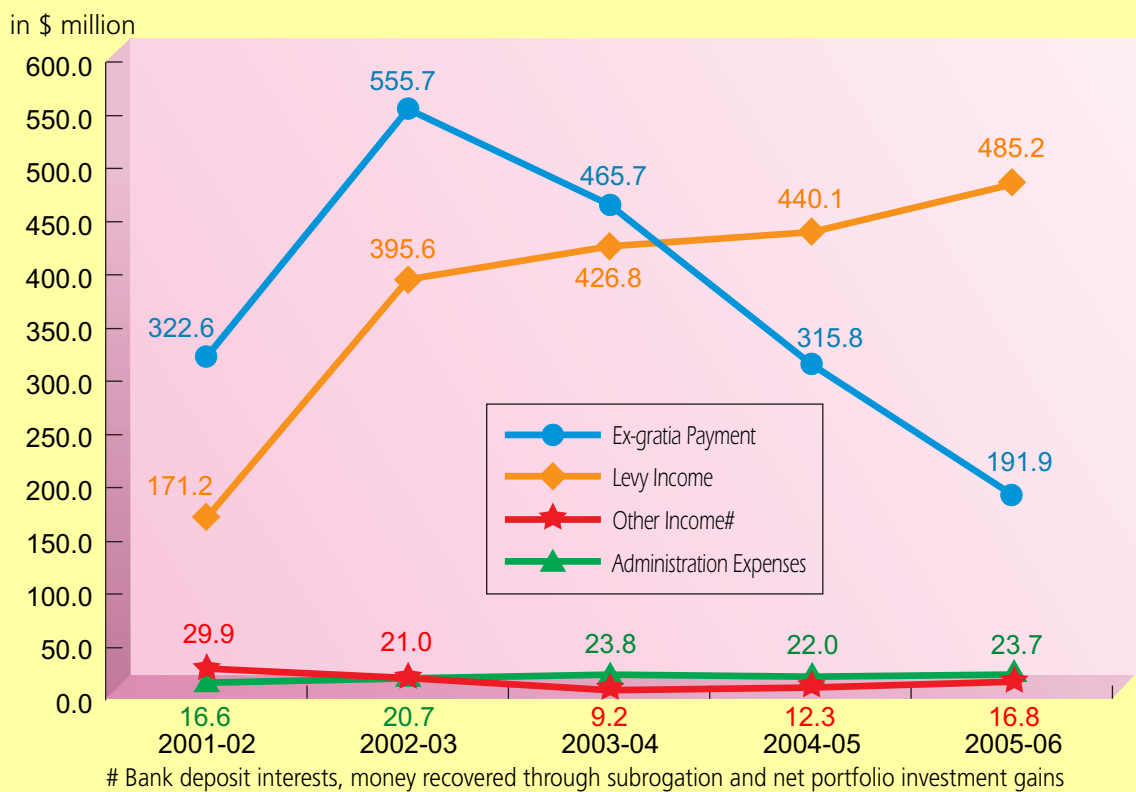
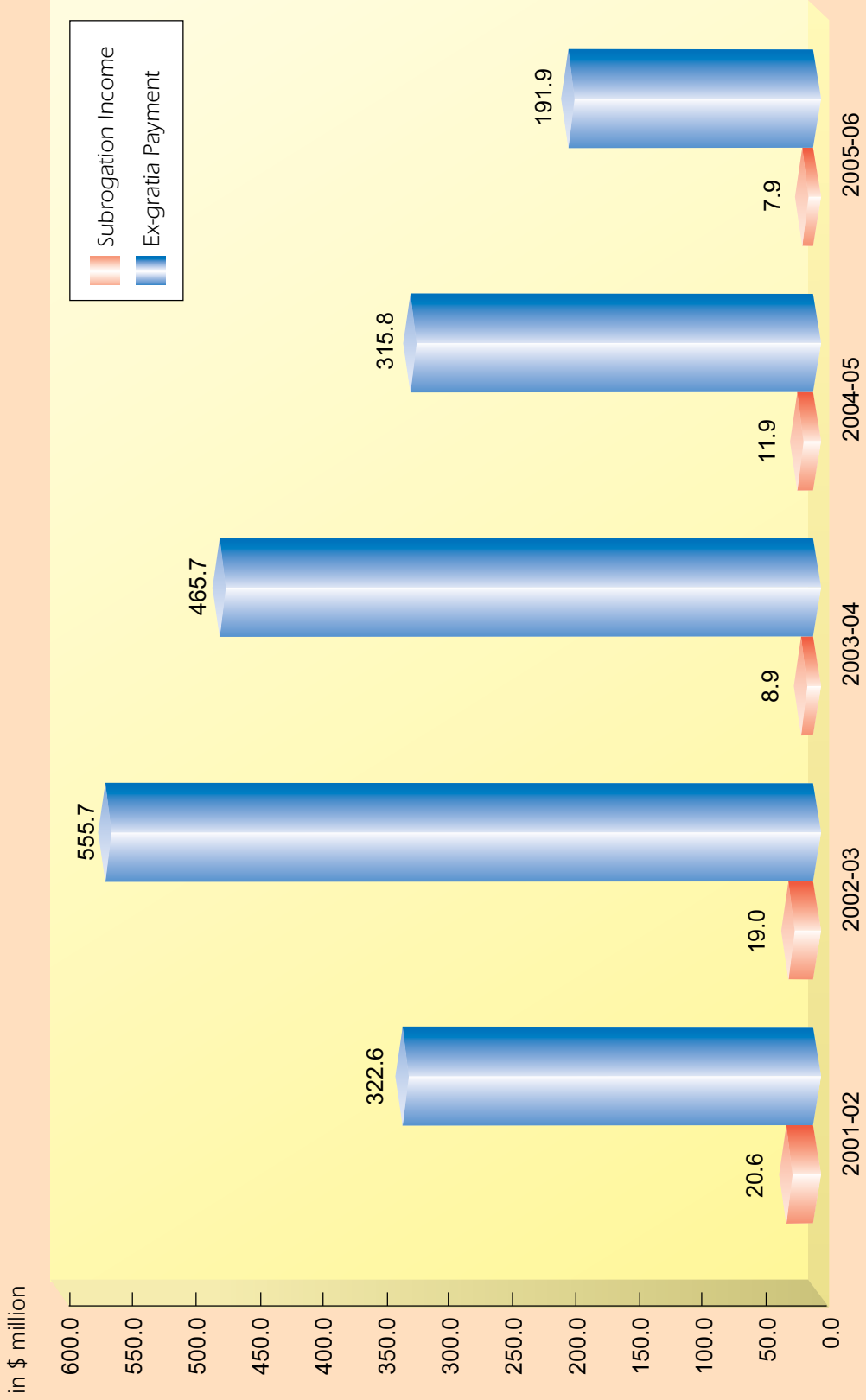
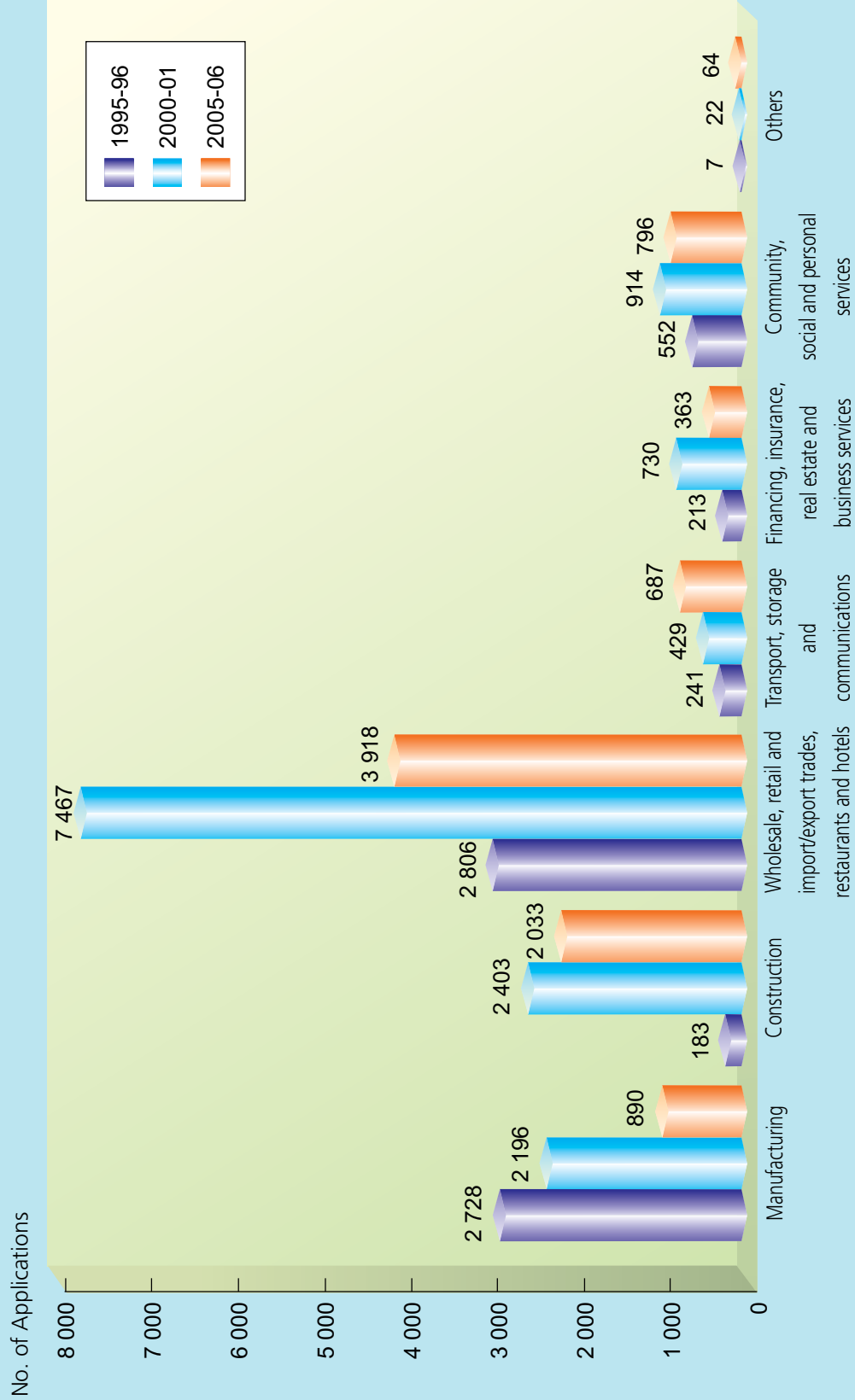


Figure 6.
Subrogation Income and Ex-gratia Payment of the Fund from 2001-02 to 2005-06



Analysis of applications received by economic sector in 1995-96, 2000-01 and 2005-06



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Appendix IX

ASSURANCE & ADVISORY
BUSINESS SERVICES

Report and Audited Financial Statements

PROTECTION OF WAGES ON INSOLVENCY FUND

31 March 2006

 ERNST & YOUNG

PROTECTION OF WAGES ON INSOLVENCY FUND

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Statement of changes in fund and reserves	4
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REPORT OF THE AUDITORS

To the members
Protection of Wages on Insolvency Fund (the "Fund")
(Established under the Protection of Wages on Insolvency Ordinance)

We have audited the financial statements on pages 2 to 12 which have been prepared in accordance with accounting principles generally accepted in Hong Kong.

Respective responsibilities of the Protection of Wages on Insolvency Fund Board (the "Board") and auditors
The Protection of Wages on Insolvency Ordinance requires the Board to prepare financial statements of 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 Hong Kong Standards on Auditing issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA"). An audit includes an 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 judgements 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 affairs of the Fund as at 31 March 2006 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.

Ernst & Young
Certified Public Accountants
Hong Kong
16 August 2006

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF INCOME AND EXPENDITURE

Year ended 31 March 2006

	Notes	2006 HK\$	2005 HK\$ (Restated)
INCOME	3	<u>501,953,060</u>	<u>452,444,861</u>
EXPENDITURE			
Claims	4	191,937,694	315,822,044
Supervision fee	7	16,852,124	19,762,842
Auditors' remuneration		54,800	42,000
Rates and building management charges		329,747	360,947
Insurance		6,869	7,270
Interest expense		-	625,168
Printing and stationery		49,108	50,590
Depreciation		5,494,935	-
Miscellaneous expenses		<u>841,906</u>	<u>1,126,313</u>
TOTAL EXPENDITURE		<u>215,567,183</u>	<u>337,797,174</u>
Surplus for the year		<u><u>286,385,877</u></u>	<u><u>114,647,687</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF ASSETS AND LIABILITIES

31 March 2006

	Notes	2006 HK\$	2005 HK\$
NON-CURRENT ASSET			
Property	8	21,979,742	27,474,677
Total non-current asset		<u>21,979,742</u>	<u>27,474,677</u>
CURRENT ASSETS			
Levy receivable		48,872,700	35,311,250
Interest receivable		1,608,043	148,634
Sundry deposits		32,600	82,600
Sundry debtors		2,374	11,574
Cash at banks	10	362,810,018	116,830,209
Total current assets		<u>413,325,735</u>	<u>152,384,267</u>
CURRENT LIABILITIES			
Approved claims payable		8,222,552	13,444,892
Accrued operation expenses		57,990	44,730
Accrued supervision fee	7	16,900,000	20,000,000
Total current liabilities		<u>25,180,542</u>	<u>33,489,622</u>
NET CURRENT ASSETS		388,145,193	118,894,645
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>410,124,935</u>	<u>146,369,322</u>
NON-CURRENT LIABILITIES			
Government loan	9	-	22,000,000
Government loan interest payable		-	630,264
Total non-current liabilities		<u>-</u>	<u>22,630,264</u>
NET ASSETS		<u>410,124,935</u>	<u>123,739,058</u>
FINANCED BY			
Accumulated surplus		393,586,148	79,725,594
General reserve	11	16,538,787	16,538,787
Building reserve	12	-	27,474,677
Total accumulated surplus and reserves		<u>410,124,935</u>	<u>123,739,058</u>



Chairman



Board Member

PROTECTION OF WAGES ON INSOLVENCY FUND
STATEMENT OF CHANGES IN FUND AND RESERVES

Year ended 31 March 2006

	Note	Accumulated surplus/(deficit) HK\$	General reserve HK\$	Building reserve HK\$	Total HK\$
At 1 April 2004		(34,922,093)	16,538,787	27,474,677	9,091,371
Surplus for the year		<u>114,647,687</u>	<u>-</u>	<u>-</u>	<u>114,647,687</u>
At 31 March 2005 and at 1 April 2005		79,725,594	16,538,787	27,474,677	123,739,058
Adjustment for building reserve	12	27,474,677	-	(27,474,677)	-
Surplus for the year		<u>286,385,877</u>	<u>-</u>	<u>-</u>	<u>286,385,877</u>
At 31 March 2006		<u>393,586,148</u>	<u>16,538,787</u>	<u>-</u>	<u>410,124,935</u>

PROTECTION OF WAGES ON INSOLVENCY FUND

CASH FLOW STATEMENT

Year ended 31 March 2006

	Notes	2006 HK\$	2005 HK\$
CASH FLOWS FROM OPERATING ACTIVITIES			
Surplus for the year		286,385,877	114,647,687
Adjustments for:			
Interest income	3	(8,857,553)	(411,814)
Interest expense		-	625,168
Depreciation	8	<u>5,494,935</u>	<u>-</u>
Operating cash flows before working capital changes		283,023,259	114,861,041
Decrease/(increase) in levy receivable		(13,561,450)	4,377,500
Decrease/(increase) in sundry deposits		50,000	(68,400)
Decrease/(increase) in sundry debtors		9,200	(5,200)
Decrease in approved claims payable		(5,222,340)	(3,251,810)
Increase/(decrease) in accrued operation expenses		13,260	(4,090)
Decrease in accrued supervision fee		<u>(3,100,000)</u>	<u>(2,200,000)</u>
Cash generated from operating activities		<u>261,211,929</u>	<u>113,709,041</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Interest received		7,398,144	263,180
Increase in fixed deposits with maturity over three months		<u>(190,961,029)</u>	<u>(74,804,449)</u>
Net cash outflow from investing activities		<u>(183,562,885)</u>	<u>(74,541,269)</u>
CASH FLOWS FROM FINANCING ACTIVITIES			
Interest paid		(630,264)	-
Repayment of government loan	9	<u>(22,000,000)</u>	<u>-</u>
Net cash outflow from financing activities		<u>(22,630,264)</u>	<u>-</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS		55,018,780	39,167,772
Cash and cash equivalents at beginning of year		<u>42,025,760</u>	<u>2,857,988</u>
CASH AND CASH EQUIVALENTS AT END OF YEAR		<u><u>97,044,540</u></u>	<u><u>42,025,760</u></u>
ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS			
Cash at banks	10	362,810,018	116,830,209
Time deposits with original maturity over three months		<u>(265,765,478)</u>	<u>(74,804,449)</u>
Cash at bank with maturity of three months or less		<u><u>97,044,540</u></u>	<u><u>42,025,760</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

1. GENERAL INFORMATION

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.

2.1 BASIS OF PREPARATION

These financial statements have been prepared in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") (which also include Hong Kong Accounting Standards ("HKASs") and Interpretations) issued by the Hong Kong Institute of Certified Public Accountants, accounting principles generally accepted in Hong Kong and the Protection of Wages on Insolvency Ordinance. They have been prepared under the historical cost convention.

2.2 IMPACT OF NEW AND REVISED HONG KONG FINANCIAL REPORTING STANDARDS

The following new and revised HKFRSs affect the Fund and are adopted for the first time for the current year's financial statements:

HKAS 1	Presentation of Financial Statements
HKAS 7	Cash Flow Statements
HKAS 8	Accounting Policies, Changes in Accounting Estimates and Errors
HKAS 16	Property, Plant and Equipment
HKAS 17	Leases
HKAS 18	Revenue
HKAS 19	Employee Benefits
HKAS 32	Financial Instruments: Disclosure and Presentation
HKAS 37	Provisions, Contingent Liabilities and Contingent Assets
HKAS 39	Financial Instruments: Recognition and Measurement
HKAS 39 Amendment	Transition and Initial Recognition of Financial Assets and Financial Liabilities

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

2.2 IMPACT OF NEW AND REVISED HONG KONG FINANCIAL REPORTING STANDARDS
(continued)

Previously, the Fund has taken 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 and no depreciation has been provided on the property. Upon the adoption of HKAS 16, the Fund is required to calculate depreciation on the deemed cost of the property commencing from the time at which this Standard is first applied.

2.3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Property, plant and equipment and depreciation

Property, plant and equipment are stated at cost less accumulated depreciation and any impairment losses. The cost of an item of property, plant and equipment comprises its purchase price and any directly attributable costs of bringing the asset to its working condition and location for its intended use. Expenditure incurred after items of property, plant and equipment have been put into operation, such as repairs and maintenance, is normally charged to the statement of income and expenditure in the period in which it is incurred.

Depreciation is calculated on the straight-line basis to write off the cost of each item of property, plant and equipment over its estimated useful life. The principal annual rates used for this purpose is as follows:

Building	20%
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Operating leases

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

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

2.3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue recognition

Revenue is recognised on the following bases:

- (a) levy income, on an accrual basis for the cash receipts received by the Inland Revenue Department; and
- (b) interest income, accrued on a time basis, by reference to the principal outstanding and at the interest rate applicable; and
- (c) money recovered by subrogation, when the amounts are received.

Recognition of claims

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

3. INCOME

	2006 HK\$	2005 HK\$
Levy	485,174,150	440,099,300
Money recovered by subrogation	7,921,357	11,933,747
Bank interest income	8,857,553	411,814
	<u>501,953,060</u>	<u>452,444,861</u>

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.

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

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:

(a) 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; and/or

(b) 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; and/or

(c) 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. REMUNERATION OF BOARD MEMBERS

No Board Members received any fees or other emoluments in respect of their services rendered to the Fund during the year (2005: Nil).

6. TAX

The Fund is exempt from Hong Kong taxation.

7. 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.

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

8. PROPERTY

	Building HK\$
31 March 2006	
At 1 April 2005, cost	27,474,677
Depreciation provided during the year	<u>(5,494,935)</u>
At 31 March 2006, net carrying amount	<u>21,979,742</u>
31 March 2005	
At 1 April 2004, cost	27,474,677
Depreciation provided during the year	<u>-</u>
At 31 March 2005, net carrying amount	<u>27,474,677</u>

The cost of property represents the total cost of purchase of the Board's office premises situated in Hong Kong which is held under long term lease.

9. GOVERNMENT LOAN

	2006 HK\$	2005 HK\$
Government loan	<u>-</u>	<u>22,000,000</u>

The loan was unsecured, bore interest at a pre-determined rate and was to be repayable by 18 equal half-yearly installments commencing 1 April 2007. However, the amount was fully repaid during the current year.

10. CASH AT BANKS

	2006 HK\$	2005 HK\$
Bank balances	51,239	(2,475,643)
Time deposits	<u>362,758,779</u>	<u>119,305,852</u>
	<u>362,810,018</u>	<u>116,830,209</u>

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

11. 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.

12. BUILDING RESERVE

	2006 HK\$	2005 HK\$
Building reserve	<u>-</u>	<u>27,474,677</u>

The cost of the property, as noted in Note 8 to the financial statements, was funded from an appropriation from the Accumulated Surplus in the year of purchase. The appropriation was credited to the Building Reserve Account. Due to the adoption of HKAS 16, as noted in Note 2 to the financial statements, the amount appropriated has been written back to the Accumulated Surplus in the current year.

13. OPERATING LEASE COMMITMENTS

The Fund leases storerooms under operating lease arrangements with leases negotiated for terms of two years on fixed monthly rentals.

At the balance sheet date, the Fund had total future minimum lease payments under non-cancellable operating leases falling due as follows:

	2006 HK\$	2005 HK\$
Within one year	64,400	144,900
In the second to fifth years, inclusive	<u>-</u>	<u>55,200</u>
	<u>64,400</u>	<u>200,100</u>

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2006

14. CONTINGENT LIABILITIES

At the balance sheet date, contingent liabilities not provided for in the financial statements is as follows:

	2006 HK\$	2005 HK\$
Claims received but not yet approved	<u>131,250,000</u>	<u>241,625,000</u>

A provision has not been recognised in respect of such possible payments, as its existence will be confirmed only by approval by the Commissioner for Labour.

15. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 16 August 2006.

