

**2009-10**

週年報告 *ANNUAL REPORT*

**ANNUAL REPORT OF  
THE PROTECTION OF WAGES ON  
INSOLVENCY FUND BOARD  
2009-10**

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## CHAIRMAN'S FOREWORD

With pleasure and delight, I present the Annual Report of the Protection of Wages on Insolvency Fund Board covering the period from 1 April 2009 to 31 March 2010.

This year began as a most challenging one to the Board under the adverse impact of the global financial tsunami on Hong Kong's economy, which lingered through early 2009 from its onset in late 2008. The number of applications received in the first half of 2009-10 increased tremendously as compared with the corresponding period of 2008-09, in particular in the third quarter of 2009. The Fund performed an important role in providing a safety net to employees affected by business closures during the economic downturn, thus maintaining harmonious labour relations and social stability. Along with the rebound of local economy which progressed faster than expected, the number of applications received by the Fund in the second half of the financial year recorded evidential drop. With ups and downs, the Fund received a total of 6 472 applications in the whole year of 2009-10, down 14% over the figure of 7 511 in 2008-09. Of the applications received in 2009-10, 6 025 applications for ex gratia payment were approved, leading to a total payout of \$153.7 million, an increase of 19% over the preceding year.

It is the Board's long standing principle to adopt a progressive approach in improving the Fund's coverage. The Board has made thorough deliberations and come to the consensus early this year to expand the scope of the Fund to cover pay for annual leave and statutory holidays that an employee is entitled under the Employment Ordinance but not yet taken. After the proposal has gained support in consultation with the Labour Advisory Board and Legislative Council Panel on Manpower, our legislative amendment exercise is now in full swing.

On the financial side, I am pleased to report that the Fund registered a surplus of \$289.5 million for the 2009-10 financial year and an accumulative surplus reaching \$1,835.7 million by the end of March 2010. While the economy of Hong Kong has been regaining momentum, the economic outlook is not yet free from uncertainties incurred by the external environment. We would faithfully and responsibly carry on with a well-balanced and prudent approach to manage the Fund to ensure its sustainability.

We have never slackened our efforts in guarding against abuse by unscrupulous employers. The inter-departmental Task Force, comprising representatives of the Labour Department (LD), Commercial Crime Bureau (CCB) of Hong Kong Police Force, Official Receiver's Office (ORO) and Legal Aid Department (LAD), have continued with its best endeavours to check potential abuse of the Fund. This year, a company representative was convicted under the common law and the Theft Ordinance by the Police for inciting others to defraud the Fund and was sentenced to 160 hours' community service order. I am sure LD's proactive collaboration with other departments will continue to prevail.

I wish to take this opportunity to express my cordial thanks to all members of the Board for their active participation in the discussions over each agenda item and solid contributions throughout the year. On behalf of the Board, I would also like to convey our great appreciation to those who have been in close partnership with us throughout the year, notably LD, LAD, ORO, CCB and Inland Revenue Department. The Board is dedicated to working closely with the Government and other partners with a view to contributing to a harmonious and stable society.

Clement CHEN Cheng-jen, BBS, JP

Chairman

Protection of Wages on Insolvency Fund Board

September 2010

# MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2009-10

## Chairman

Mr. Clement CHEN Cheng-jen, BBS, JP

## Members

### Representing employees

Mr. CHEUNG Pak-chi, MH

Mr. CHAN Wai-lun, MH

Ms. LAM Suk-fun

### Representing employers

Mr. MA Ho-fai, SBS, JP

Mr. Patrick CHAN Kwok-wai

Dr. David WONG Yau-kar, JP

### Representing government departments

Assistant Commissioner (Labour Relations) of the Labour Department

Assistant Principal Solicitor of the Official Receiver's Office

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

## Protection of Wages on Insolvency Fund Board 2009-10



**Mr. Clement CHEN Cheng-jen, BBS, JP**  
*Chairman*



**Mr. CHEUNG Pak-chi, MH**  
*Representing employees*



**Mr. CHAN Wai-lun, MH**  
*Representing employees*



**Ms. LAM Suk-fun**  
*Representing employees*



**Mr. MA Ho-fai, SBS, JP**  
*Representing employers*



**Mr. Patrick CHAN Kwok-wai**  
*Representing employers*



**Dr. David WONG Yau-kar, JP**  
*Representing employers*



**Mr. Byron NG Kwok-keung, JP**  
*Assistant Commissioner  
(Labour Relations)  
Labour Department*



**Ms. Therese TSANG Mei-yee**  
*Assistant Principal Solicitor  
Official Receiver's Office*



**Mrs. Christina HADIWIBAWA**  
*Assistant Principal Legal Aid Counsel  
Legal Aid Department*

## **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 2010.

## **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 \$450 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 under the Employment Ordinance up to \$50,000 plus 50% of any entitlement 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. 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 Labour Department 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 any payment made to the applicant in the course of winding-up or bankruptcy proceedings.

## Application of the Fund's reserve

A property was purchased in 1990 to provide office accommodation for the Board. In addition, 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 summarised as follows:

### Applications received

During the year 2009-10, 6 472 applications involving claims for ex gratia payment of \$393.0 million were received from employees. A total of 1 092 suspected insolvency cases were recorded. Detailed breakdown of the applications is at **Appendix I**.

Of the 1 092 suspected insolvency cases, 1 031 involved less than 20 employees per case, 48 involved 20 to 49 employees per case, 11 involved 50 to 99 employees per case, and the remaining 2 each involved 100 employees or more.

During the year, the food and beverage service activities recorded the largest number of applications, with 1 457 applications involving a total claim of \$31.0 million. This was followed by the construction industry with 968 applications and a total claim of \$30.3 million, and the import/export trade with 923 applications and a total claim of \$76.9 million. These three trades accounted for 51.7% of all applications and 35.1% of the total amount claimed.

Out of the total 6 472 applicants in the year, 5 662 applied for ex gratia payment on arrears of wages, 4 456 applied for payment on wages in lieu of notice, and 2 694 applied for payment on severance payment. Breakdowns of these applications are at **Appendices II, III and IV**.

## Applications processed

A total of 6 025 applications were approved during the year, resulting in payment amounting to \$153.7 million. Out of these, a total payment of \$29.9 million was made to 1 383 applicants under section 16(1)(a)(ii) and 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 80.6% of applicants for arrears of wages, 98.8% of applicants for wages in lieu of notice, and 57.4% of applicants for severance payment.

The Commissioner for Labour rejected 140 applications involving claims totalling \$17.9 million, mostly for reasons such as claims with insufficient evidence, claims without legal backing or the applicants' status as registered company directors. At the same time, 446 applications involving claims amounting to \$16.9 million were withdrawn, mainly as a result of direct settlement between employees and their employers or liquidators.

**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 the Fund's performance and financial statements, projection of income and expenditure and deliberation of a recommendation to expand the scope of the Fund to cover pay for untaken annual leave and statutory holidays.

## FINANCIAL POSITION OF THE PROTECTION OF WAGES ON INSOLVENCY FUND

During the year, the Fund received levy income of \$455.1 million and paid out a total of \$153.7 million in ex gratia payment. The Fund registered a surplus of \$289.5 million, as compared with a surplus of \$317.6 million in the previous financial year. As at 31 March 2010, the Fund's accumulated surplus stood at \$1,835.7 million.

A copy of the independent auditors' report and the audited financial statements for the year ended 31 March 2010 is at **Appendix IX**.

## ACTIVITIES HIGHLIGHT

### Publicity and promotion for the Fund

During the year, the Labour Department also continued with various activities to publicise the Fund and the provisions of the Ordinance. Among other things, six exhibitions were staged in different districts covering a number of themes, including an introduction about the Fund and employees' applications for ex gratia payment.



The Fund and the Ordinance were publicised in the exhibitions organised by the Labour Department.

## **Achievements of the inter-departmental Task Force**

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

From April 2009 to March 2010, in the concluded wage offence prosecution cases involving applications for the Fund, we recorded 402 convicted summonses against company responsible persons. On the other hand, a company representative was convicted under the common law and the Theft Ordinance for inciting others to defraud the Fund. He was imposed a community service order of 160 hours upon sentencing. The court disqualified 18 company responsible persons involving in fraudulent Fund cases from being directors, and taking part in the promotion, formation or management of a company, with the disqualification period ranging from one to five years.

## Appendices



## Operating results of the Protection of Wages on Insolvency Fund in 2009-10

### I. Breakdown of applications by result

|   |                 |                       |                  |   |  |  |  |  |  |                 |
|---|-----------------|-----------------------|------------------|---|--|--|--|--|--|-----------------|
| (1) No. of cases received                                 |                 |                       |                  |   |  |  |  |  |  | <u>1092</u>     |
| (2) No. of applications                                   |                 |                       |                  |   |  |  |  |  |  |                 |
| (i) b/f last period                                       |                 |                       |                  |   |  |  |  |  |  | 2 777           |
| received this period                                      |                 |                       |                  |   |  |  |  |  |  | 6 472           |
| reconsidered this period                                  |                 |                       |                  |   |  |  |  |  |  | <u>36</u>       |
|   |                 |                       |                  |   |  |  |  |  |  | <u>9 285</u>    |
| (ii) processed  |                 |                       |                  |   |  |  |  |  |  | 6 611           |
| <i>approved</i>   |                 |                       |                  |   |  |  |  |  |  | 6 025           |
| <i>refused</i>  |                 |                       |                  |   |  |  |  |  |  | 140             |
| <i>withdrawn</i>  |                 |                       |                  |   |  |  |  |  |  | 446             |
| outstanding   |                 |                       |                  |   |  |  |  |  |  | 2 625           |
| put aside*  |                 |                       |                  |   |  |  |  |  |  | <u>49</u>       |
|   |                 |                       |                  |   |  |  |  |  |  | <u>9 285</u>    |
| (3) Amount of ex gratia payment (in HK\$'000) applied for | <b>Arrears</b>  | <b>Wages in</b>       | <b>Severance</b> |   |  |  |  |  |  |                 |
|   | <b>of wages</b> | <b>lieu of notice</b> | <b>payment</b>   |   |  |  |  |  |  | <b>HK\$'000</b> |
| (i) b/f last period                                       |                 |                       |                  |   |  |  |  |  |  | 185,469         |
| received this period                                      | 154,481         | + 72,647              | + 165,904        | = |  |  |  |  |  | 393,032         |
| reconsidered this period                                  | 4,075           | + 616                 | + 1,098          | = |  |  |  |  |  | 5,789           |
|   |                 |                       |                  |   |  |  |  |  |  | <u>584,290</u>  |
| (ii) approved   | 77,393          | + 42,337              | + 34,000         | = |  |  |  |  |  | 153,730         |
| screened  |                 |                       |                  |   |  |  |  |  |  | 226,347         |
| refused   |                 |                       |                  |   |  |  |  |  |  | 17,920          |
| withdrawn   |                 |                       |                  |   |  |  |  |  |  | 16,929          |
| outstanding }<br>put aside* }                             |                 |                       |                  |   |  |  |  |  |  | 169,364         |
|   |                 |                       |                  |   |  |  |  |  |  | <u>584,290</u>  |
| (4) No. of applications seeking review by the Fund Board  |                 |                       |                  |   |  |  |  |  |  | <u>0</u>        |

### II. Presentation of petition in relation to applications approved

|  |              |
|--|--------------|
| (1) No. of applications where a winding-up petition has been made  | 4 293        |
| (2) No. of applications where a bankruptcy petition has been made  | 349          |
| (3) No. of applications dealt with under s.18(1) of the Protection of Wages on Insolvency Ordinance        | 1 352        |
| (4) No. of applications dealt with under s.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance | <u>31</u>    |
|  | <u>6 025</u> |

### III. Breakdown of cases by employment size

|                            |              |
|----------------------------|--------------|
| (1) Less than 20 employees | 1 031        |
| (2) 20 ~ 49 employees      | 48           |
| (3) 50 ~ 99 employees      | 11           |
| (4) 100 or more employees  | <u>2</u>     |
|                            | <u>1 092</u> |

\* Cases pending private settlement or withdrawal.

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**Protection of Wages on Insolvency Fund Board**

**IV. Breakdown of applications by industry**

| <b>Hong Kong Standard Industrial Classification</b> | <b>Industry in which applicants worked</b>   | <b>No. of applicants</b> |       | <b>Amount claimed (including wages, wages in lieu of notice and severance payment)</b> |
|---|--|--------------------------|-------|--|
| <i>Division C</i>                                   | <i>Manufacturing</i>   |                          |       |  |
| Sub-group   |  |                          |       |  |
| 10  | Manufacture of food products   | 30                       | (3)   | \$1,572,092.57   |
| 13  | Manufacture of textiles  | 102                      | (14)  | \$8,482,413.45   |
| 14  | Manufacture of wearing apparel   | 314                      | (21)  | \$43,241,398.14  |
| 16  | Manufacture of wood and of products of wood and cork, articles of straw and plaiting materials (except furniture and toys) | 1                        | (1)   | \$130,799.90   |
| 17  | Manufacture of paper and paper products  | 3                        | (1)   | \$663,074.03   |
| 18  | Printing and reproduction of recorded media  | 19                       | (3)   | \$1,842,284.71   |
| 19  | Manufacture of coke and refined petroleum products   | 7                        | (1)   | \$780,436.51   |
| 22  | Manufacture of rubber and plastics products (except furniture, toys, sports goods and stationery)                          | 26                       | (8)   | \$1,866,985.91   |
| 24  | Manufacture of basic metals  | 38                       | (6)   | \$4,894,473.38   |
| 25  | Manufacture of fabricated metal products (except machinery and equipment)  | 3                        | (1)   | \$13,500.00  |
| 26  | Manufacture of computer, electronic and optical products   | 105                      | (13)  | \$9,888,824.94   |
| 27  | Manufacture of electrical equipment  | 34                       | (6)   | \$6,771,859.51   |
| 28  | Manufacture of machinery and equipment n.e.c.  | 37                       | (6)   | \$3,041,603.30   |
| 31  | Manufacture of furniture   | 9                        | (2)   | \$549,743.24   |
| 32  | Other manufacturing  | 146                      | (13)  | \$12,488,557.52  |
| 33  | Repair and installation of machinery and equipment   | 11                       | (3)   | \$198,496.57   |
| <i>Division E</i>                                   | <i>Water supply, sewerage, waste management and remediation activities</i>   |                          |       |  |
| Sub-group   |  |                          |       |  |
| 38  | Waste collection, treatment and disposal activities; materials recovery  | 3                        | (3)   | \$75,749.83  |
| <i>Division F</i>                                   | <i>Construction</i>  | 968                      | (211) | \$30,291,300.43  |
| <i>Division G</i>                                   | <i>Import/export, wholesale and retail trades</i>  |                          |       |  |
| Sub-group   |  |                          |       |  |
| 45  | Import and export trade  | 923                      | (235) | \$76,857,472.55  |
| 46  | Wholesale  | 173                      | (12)  | \$23,562,992.51  |
| 47  | Retail trade   | 196                      | (58)  | \$11,251,581.23  |

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



| 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 H</i>                            | <i>Transportation, storage, postal and courier services</i>  |                   |       |   |
| Sub-group                                    |  |                   |       |   |
| 49   | Land transport   | 287               | (69)  | \$16,616,159.81   |
| 50   | Water transport  | 13                | (4)   | \$646,768.77  |
| 51   | Air transport  | 5                 | (2)   | \$403,280.48  |
| 52   | Warehousing and support activities for transportation  | 41                | (6)   | \$753,778.56  |
| 53   | Postal and courier activities  | 35                | (6)   | \$1,083,005.89  |
| <i>Division I</i>                            | <i>Accommodation and food service activities</i>   |                   |       |   |
| Sub-group                                    |  |                   |       |   |
| 55   | Short term accommodation activities  | 8                 | (2)   | \$143,104.16  |
| 56   | Food and beverage service activities   | 1 457             | (143) | \$30,965,022.79   |
| <i>Division J</i>                            | <i>Information and communications</i>  |                   |       |   |
| Sub-group                                    |  |                   |       |   |
| 58   | Publishing activities  | 78                | (9)   | \$6,740,367.07  |
| 59   | Motion picture, video and television programme production, sound recording and music publishing activities | 385               | (8)   | \$39,506,798.62   |
| 60   | Programming and broadcasting activities  | 20                | (2)   | \$431,414.54  |
| 61   | Telecommunications   | 57                | (4)   | \$1,481,549.77  |
| 62   | Information technology service activities  | 87                | (10)  | \$9,075,189.43  |
| 63   | Information service activities   | 8                 | (2)   | \$271,302.14  |
| <i>Division K</i>                            | <i>Financial and insurance activities</i>  |                   |       |   |
| Sub-group                                    |  |                   |       |   |
| 64   | Financial service activities (except insurance and pension funding)  | 86                | (29)  | \$9,093,256.36  |
| 65   | Insurance  | 5                 | (2)   | \$109,048.00  |
| 66   | Activities auxiliary to financial service and insurance activities   | 22                | (3)   | \$1,520,246.87  |
| <i>Division L</i>                            | <i>Real estate activities</i>  | 19                | (4)   | \$875,911.13  |
| <i>Division M</i>                            | <i>Professional, scientific and technical activities</i>   |                   |       |   |
| Sub-group                                    |  |                   |       |   |
| 69   | Legal and accounting activities  | 6                 | (1)   | \$351,205.76  |
| 70   | Activities of head offices; management and management consultancy activities                               | 8                 | (3)   | \$613,433.38  |
| 71   | Architecture and engineering activities, technical testing and analysis                                    | 15                | (5)   | \$449,607.72  |
| 72   | Scientific research and development  | 7                 | (4)   | \$407,951.67  |
| 74   | Advertising and market research  | 64                | (9)   | \$2,523,569.38  |
| 75   | Other professional, scientific and technical activities  | 13                | (4)   | \$874,105.97  |

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

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**Protection of Wages on Insolvency Fund Board**

| <b>Hong Kong Standard Industrial Classification</b> | <b>Industry in which applicants worked</b>                                     | <b>No. of applicants</b> |                | <b>Amount claimed (including wages, wages in lieu of notice and severance payment)</b> |
|---|--|--------------------------|----------------|--|
| <i>Division N</i>                                   | <i>Administrative and support service activities</i>                           |                          |                |  |
| Sub-group   |  |                          |                |  |
| 78  | Employment activities  | 19                       | (5)            | \$1,446,608.03   |
| 79  | Travel agency, reservation service and related activities                      | 45                       | (9)            | \$3,922,989.18   |
| 80  | Security and investigation activities  | 30                       | (4)            | \$732,618.78   |
| 81  | Services to buildings and landscape care activities                            | 14                       | (5)            | \$533,231.21   |
| 82  | Office administrative, office support and other business support activities    | 15                       | (8)            | \$568,571.37   |
| <i>Division P</i>                                   | <i>Education</i>   | 58                       | (14)           | \$785,657.28   |
| <i>Division Q</i>                                   | <i>Human health and social work activities</i>                                 |                          |                |  |
| Sub-group   |  |                          |                |  |
| 86  | Human health activities  | 13                       | (5)            | \$391,727.83   |
| <i>Division R</i>                                   | <i>Arts, entertainment and recreation</i>                                      |                          |                |  |
| Sub-group   |  |                          |                |  |
| 90  | Creative and performing arts activities  | 9                        | (4)            | \$1,983,659.70   |
| 93  | Sports and other entertainment activities                                      | 43                       | (5)            | \$1,702,400.34   |
| <i>Division S</i>                                   | <i>Other service activities</i>  |                          |                |  |
| Sub-group   |  |                          |                |  |
| 94  | Activities of membership organisations   | 5                        | (3)            | \$98,189.77  |
| 95  | Repair of motor vehicles, motorcycles, computers, personal and household goods | 8                        | (4)            | \$699,412.11   |
| 96  | Other personal service activities  | 289                      | (33)           | \$13,877,996.00  |
| <i>Division T</i>                                   | <i>Work activities within domestic households</i>                              |                          |                |  |
| Sub-group   |  |                          |                |  |
| 97  | Activities of households as employers of domestic personnel                    | 41                       | (39)           | \$879,270.31   |
| 98  | Goods- and services-producing activities of private households for own use     | 9                        | (2)            | \$2,008,018.57   |
|   | <b>Total :</b>   | <b>6 472</b>             | <b>(1 092)</b> | <b>\$393,032,068.98</b>  |

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

## Breakdown of applications for ex gratia payment on arrears of wages received in 2009-10

### 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       | 810               | 12.52      |
| \$8,000* or less                 | 1 736             | 26.82      |
| \$8,001 ~ \$18,000               | 1 747             | 26.99      |
| \$18,001 ~ \$24,000              | 595               | 9.19       |
| \$24,001 ~ \$27,000              | 207               | 3.20       |
| \$27,001 ~ \$30,000              | 162               | 2.50       |
| \$30,001 ~ \$33,000              | 145               | 2.24       |
| \$33,001 ~ \$36,000 <sup>#</sup> | 134               | 2.07       |
| \$36,001 ~ \$39,000              | 94                | 1.45       |
| More than \$39,000               | 842               | 13.01      |
| <b>Total :</b>                   | 6 472             | 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     | 1 034             | 15.98      |
| Half month or less             | 1 346             | 20.80      |
| More than 1/2 month to 1 month | 1 234             | 19.07      |
| More than 1 month to 2 months  | 1 573             | 24.30      |
| More than 2 months to 3 months | 602               | 9.30       |
| More than 3 months to 4 months | 233               | 3.60       |
| More than 4 months             | 450               | 6.95       |
| <b>Total :</b>                 | 6 472             | 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 other debts in the distribution of the remaining assets of the employer during the winding-up/bankruptcy proceedings.

<sup>#</sup> 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 2009-10

A. By amount

| Amount                           | No. of applicants | Percentage    |
|----------------------------------|-------------------|---------------|
| No entitlement/Not claimed       | 2 016             | 31.15         |
| \$2,000* or less                 | 517               | 7.99          |
| \$2,001 ~ \$6,000                | 859               | 13.27         |
| \$6,001 ~ \$10,000               | 860               | 13.29         |
| \$10,001 ~ \$15,000              | 925               | 14.29         |
| \$15,001 ~ \$22,500 <sup>#</sup> | 568               | 8.78          |
| \$22,501 ~ \$25,000              | 95                | 1.47          |
| More than \$25,000               | 632               | 9.77          |
| <b>Total :</b>                   | <u>6 472</u>      | <u>100.00</u> |

B. By notice period

| Notice period               | No. of applicants | Percentage    |
|-----------------------------|-------------------|---------------|
| No entitlement/Not claimed  | 2 016             | 31.15         |
| 1 day ~ 7 days              | 1 141             | 17.63         |
| 8 days ~ 14 days            | 80                | 1.24          |
| 15 days                     | 32                | 0.49          |
| 16 days ~ less than 1 month | 213               | 3.29          |
| 1 month <sup>*#</sup>       | 2 582             | 39.89         |
| More than 1 month           | 408               | 6.30          |
| <b>Total :</b>              | <u>6 472</u>      | <u>100.00</u> |

\* 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 other debts in the distribution of the remaining assets of the employer during the winding-up/bankruptcy proceedings.

<sup>#</sup> 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<sup>#</sup> received in 2009-10

#### A. By amount

| Amount                     | No. of applicants | Percentage    |
|----------------------------|-------------------|---------------|
| No entitlement/Not claimed | 3 778             | 58.37         |
| \$8,000* or less           | 224               | 3.46          |
| \$8,001 ~ \$36,000         | 1 042             | 16.10         |
| \$36,001 ~ \$50,000        | 316               | 4.88          |
| \$50,001 ~ \$80,000        | 429               | 6.63          |
| \$80,001 ~ \$110,000       | 254               | 3.92          |
| \$110,001 ~ \$140,000      | 161               | 2.49          |
| \$140,001 ~ \$170,000      | 93                | 1.44          |
| \$170,001 ~ \$200,000      | 54                | 0.83          |
| \$200,001 ~ \$250,000      | 55                | 0.85          |
| \$250,001 ~ \$300,000      | 22                | 0.34          |
| \$300,001 ~ \$350,000      | 19                | 0.29          |
| \$350,001 ~ \$370,000      | 7                 | 0.11          |
| \$370,001 ~ \$390,000      | 12                | 0.19          |
| More than \$390,000        | 6                 | 0.09          |
| <b>Total :</b>             | <u>6 472</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 | 3 815             | 58.95         |
| 2 ~ 4.99 years                            | 1 161             | 17.94         |
| 5 ~ 5.99 years                            | 250               | 3.86          |
| 6 ~ 6.99 years                            | 206               | 3.18          |
| 7 ~ 7.99 years                            | 143               | 2.21          |
| 8 ~ 8.99 years                            | 166               | 2.56          |
| 9 ~ 9.99 years                            | 92                | 1.42          |
| 10 ~ 14.99 years                          | 341               | 5.27          |
| 15 ~ 19.99 years                          | 183               | 2.83          |
| 20 ~ 24.99 years                          | 69                | 1.07          |
| 25 ~ 29.99 years                          | 32                | 0.49          |
| 30 ~ 34.99 years                          | 10                | 0.15          |
| 35 ~ 38.99 years                          | 2                 | 0.03          |
| 39 ~ 40.99 years                          | 2                 | 0.03          |
| 41 ~ 42.99 years                          | 0                 | 0.00          |
| 43 years' service and over                | 0                 | 0.00          |
| <b>Total :</b>                            | <u>6 472</u>      | <u>100.00</u> |

<sup>#</sup> The maximum amount of payment out of the Protection of Wages on Insolvency Fund is \$220,000.

<sup>\*</sup> Preferential limit under the Companies Ordinance and the Bankruptcy Ordinance, i.e. severance payment not exceeding \$8,000 should be paid in priority to 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 2009-10

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         | 972               | 16.13         |
| \$4,000 or less                  | 751               | 12.46         |
| \$4,001 ~ \$8,000                | 933               | 15.49         |
| \$8,001 ~ \$10,000               | 455               | 7.55          |
| \$10,001 ~ \$12,000              | 410               | 6.80          |
| \$12,001 ~ \$14,000              | 333               | 5.53          |
| \$14,001 ~ \$16,000              | 270               | 4.48          |
| \$16,001 ~ \$18,000              | 229               | 3.80          |
| \$18,001 ~ \$28,000              | 711               | 11.80         |
| \$28,001 ~ \$36,000 <sup>#</sup> | 961               | 15.95         |
| <b>Total :</b>                   | <b>6 025</b>      | <b>100.00</b> |

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

| Amount                           | No. of applicants | Percentage    |
|----------------------------------|-------------------|---------------|
| Not claimed/Not approved         | 1 818             | 30.17         |
| \$2,000 or less                  | 657               | 10.90         |
| \$2,001 ~ \$3,000                | 333               | 5.53          |
| \$3,001 ~ \$4,000                | 272               | 4.51          |
| \$4,001 ~ \$5,000                | 113               | 1.88          |
| \$5,001 ~ \$6,000                | 141               | 2.34          |
| \$6,001 ~ \$10,000               | 827               | 13.73         |
| \$10,001 ~ \$22,500 <sup>†</sup> | 1 864             | 30.94         |
| <b>Total :</b>                   | <b>6 025</b>      | <b>100.00</b> |

C. Analysis of payment approved for severance payment

| Amount                             | No. of applicants | Percentage    |
|------------------------------------|-------------------|---------------|
| Not claimed/Not approved           | 4 016             | 66.66         |
| \$8,000 or less                    | 781               | 12.96         |
| \$8,001 ~ \$22,000                 | 748               | 12.41         |
| \$22,001 ~ \$36,000                | 260               | 4.32          |
| \$36,001 ~ \$50,000                | 105               | 1.74          |
| \$50,001 ~ \$80,000                | 79                | 1.31          |
| \$80,001 ~ \$110,000               | 23                | 0.38          |
| \$110,001 ~ \$140,000              | 10                | 0.17          |
| \$140,001 ~ \$170,000              | 3                 | 0.05          |
| \$170,001 ~ \$200,000              | 0                 | 0.00          |
| \$200,001 ~ \$210,000              | 0                 | 0.00          |
| \$210,001 ~ \$220,000 <sup>*</sup> | 0                 | 0.00          |
| <b>Total :</b>                     | <b>6 025</b>      | <b>100.00</b> |

<sup>#</sup> The maximum amount of ex gratia payment out of the Protection of Wages on Insolvency Fund (the Fund) on arrears of wages.

<sup>†</sup> The maximum amount of ex gratia payment out of the Fund on wages in lieu of notice.

<sup>\*</sup> 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 2009-10

### A. Arrears of wages at maximum payment of \$36,000

| Approved payment as percentage<br>of applicants' claimed amount | Percentage of applicants |
|---|--------------------------|
| 100%  | 80.59                    |
| 90% or above  | 82.99                    |
| 80% or above  | 85.08                    |
| 70% or above  | 87.30                    |
| 60% or above  | 89.24                    |
| 50% or above  | 91.33                    |
| 40% or above  | 93.07                    |
| 30% or above  | 95.14                    |
| 20% or above  | 97.52                    |
| 10% or above  | 99.46                    |
| 5% or above   | 99.86                    |

### B. Wages in lieu of notice at maximum payment of \$22,500

| Approved payment as percentage<br>of applicants' claimed amount | Percentage of applicants |
|---|--------------------------|
| 100%  | 98.75                    |
| 90% or above  | 98.98                    |
| 80% or above  | 99.37                    |
| 70% or above  | 99.47                    |
| 60% or above  | 99.61                    |
| 50% or above  | 99.72                    |
| 40% or above  | 99.77                    |
| 30% or above  | 99.91                    |
| 20% or above  | 99.95                    |
| 10% or above  | 100.00                   |

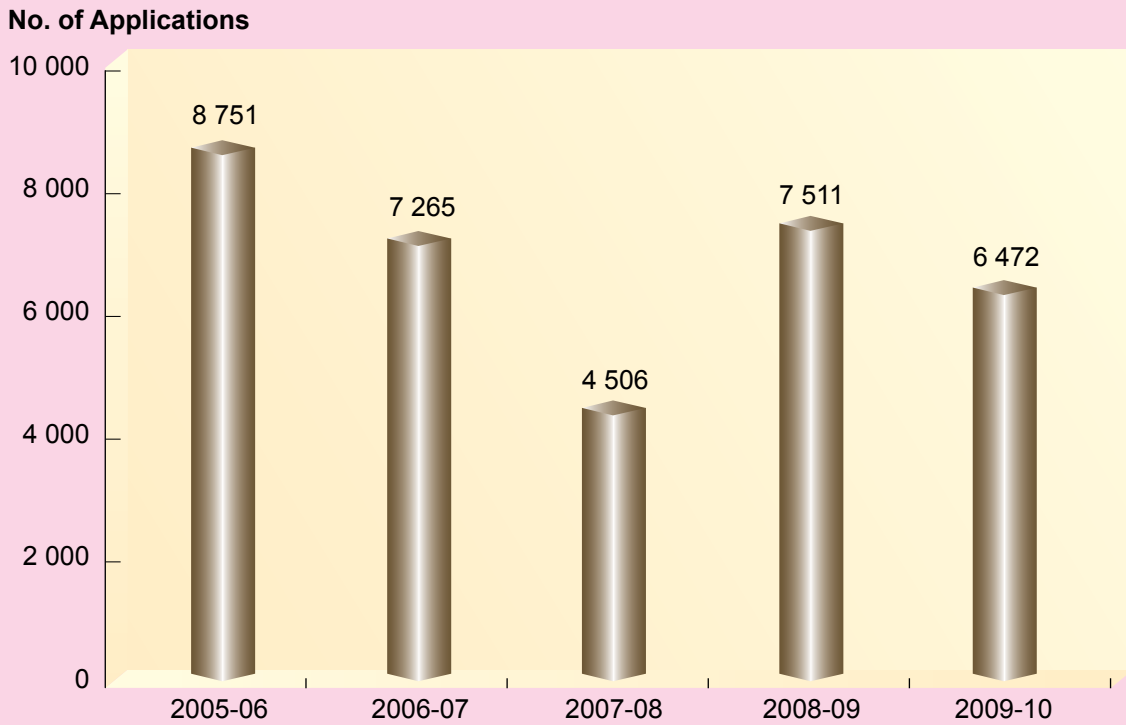
### C. Severance payment at maximum payment of \$50,000 + 50% of excess entitlement

| Approved payment as percentage<br>of applicants' claimed amount | Percentage of applicants |
|---|--------------------------|
| 100%  | 57.42                    |
| 90% or above  | 61.58                    |
| 80% or above  | 65.93                    |
| 70% or above  | 70.51                    |
| 60% or above  | 75.14                    |
| 50% or above  | 79.35                    |

Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2005-06 to 2009-10

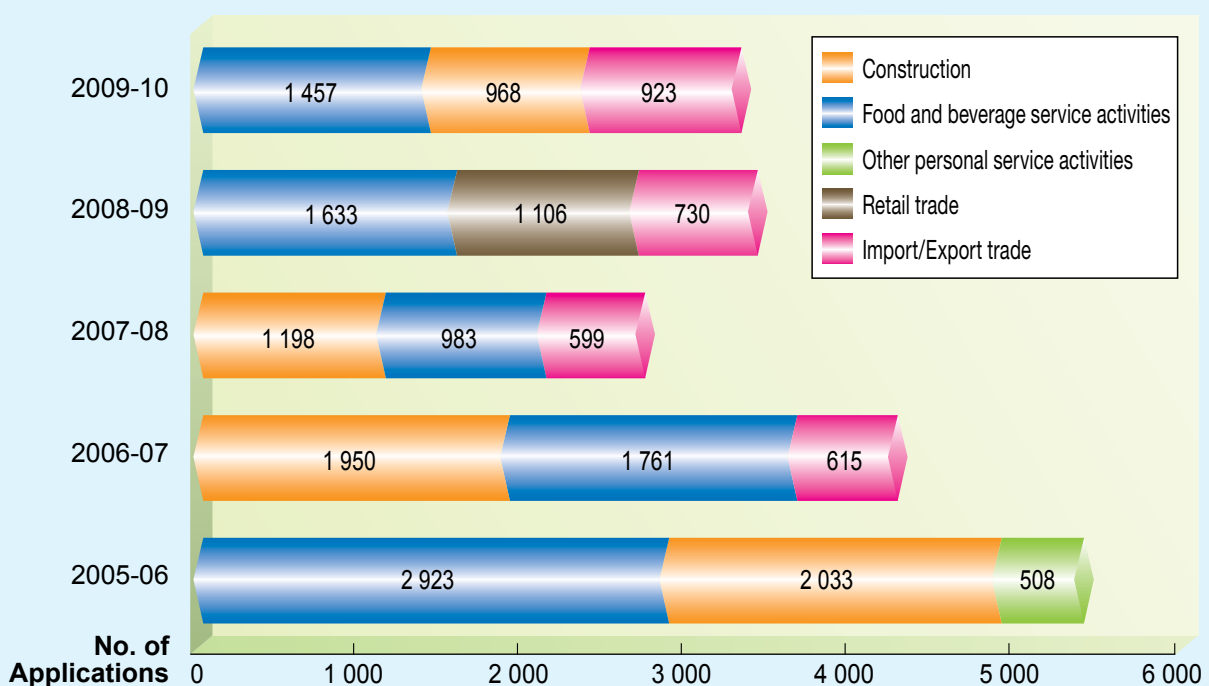
**Figure 1**

*Number of applications received by the Fund from 2005-06 to 2009-10*



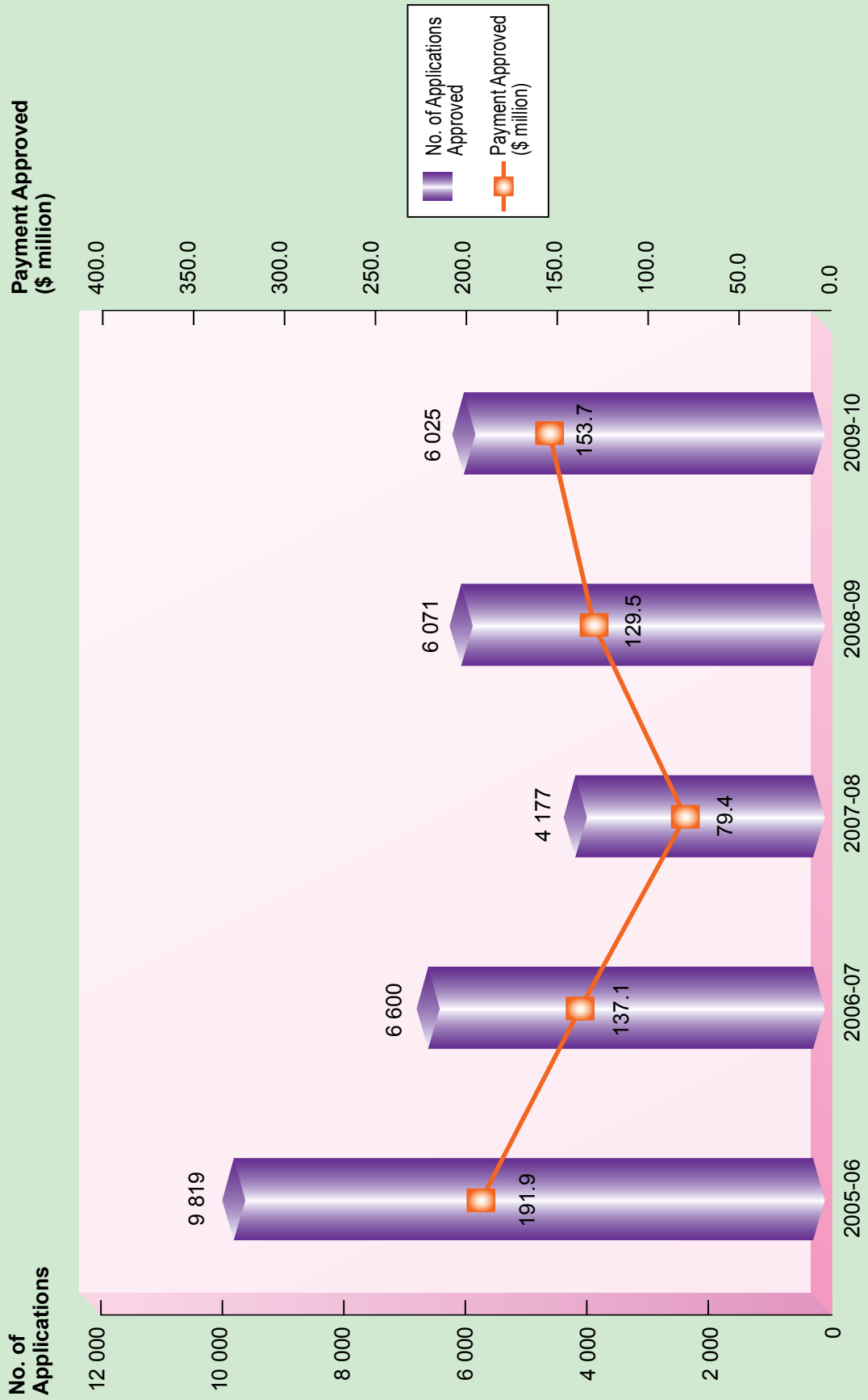
**Figure 2**

*First three industries with the largest number of applications received from 2005-06 to 2009-10*





**Figure 3**  
*Number of applications and amount of ex gratia payment approved from 2005-06 to 2009-10*



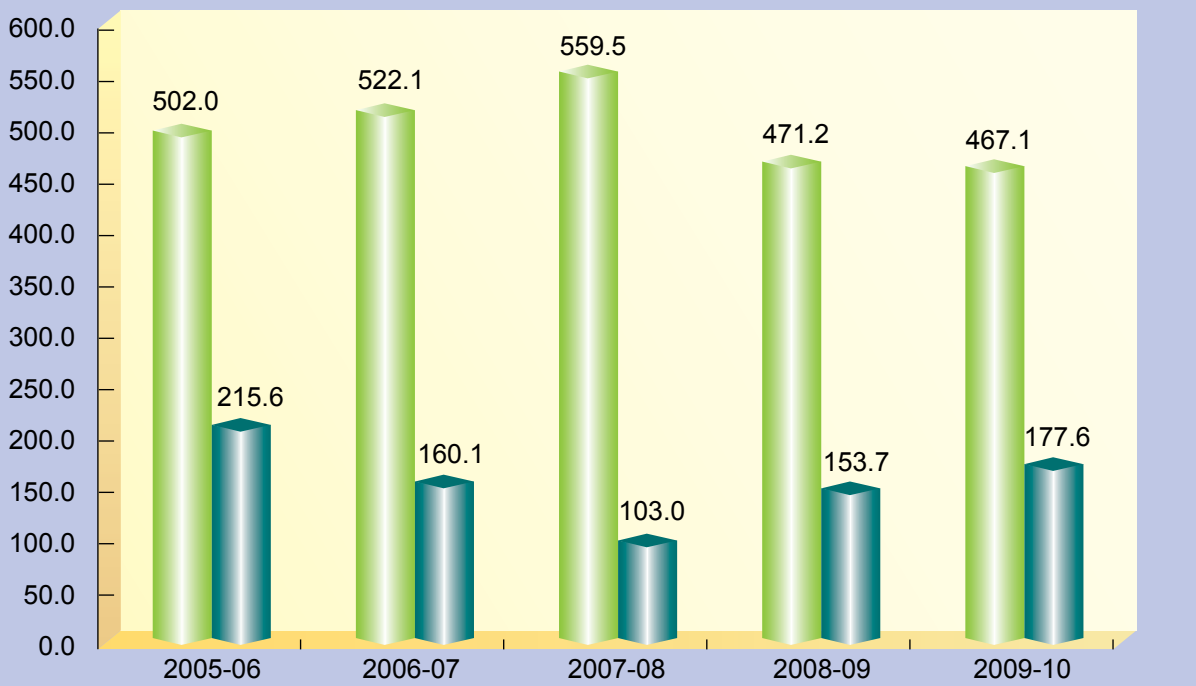
# 破產欠薪保障基金委員會

## Protection of Wages on Insolvency Fund Board

**Figure 4**

Total income and expenditure of the Fund from 2005-06 to 2009-10

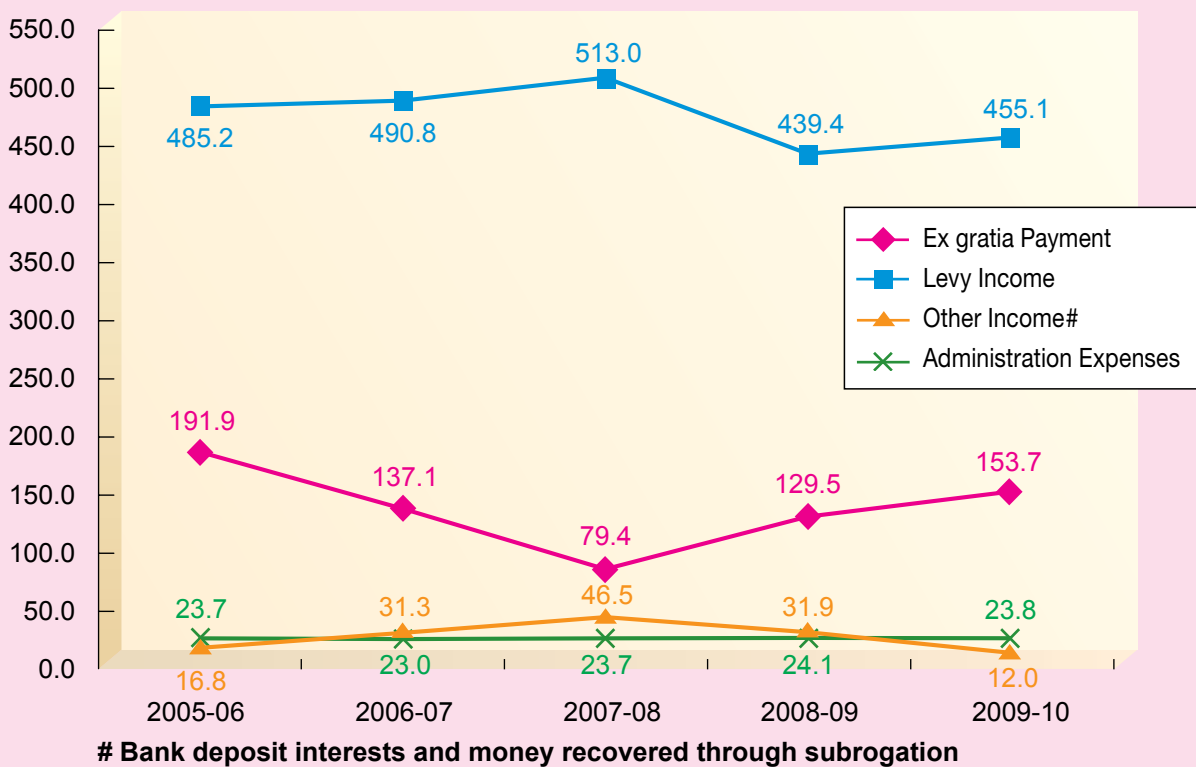
\$ million



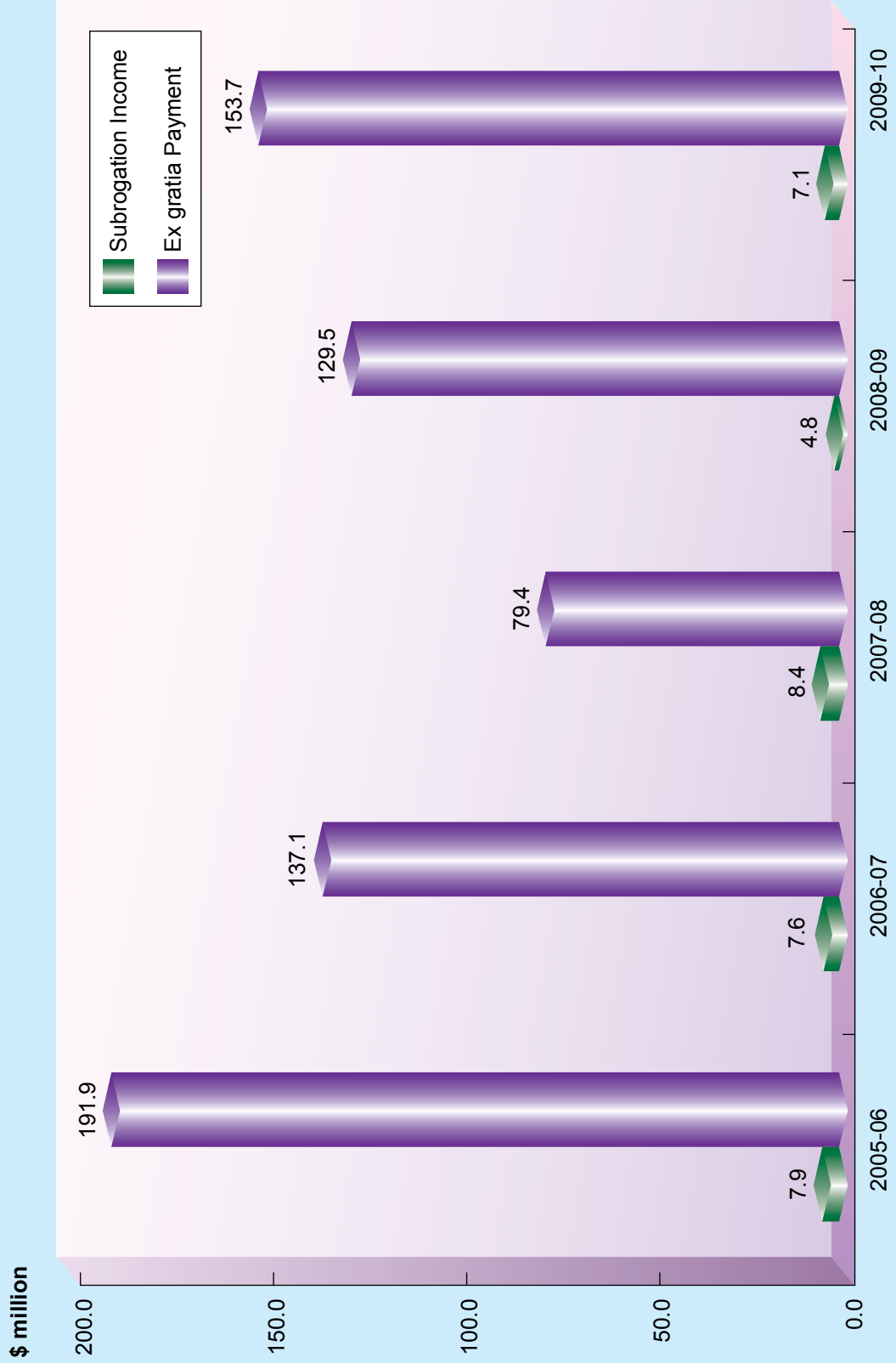
**Figure 5**

Breakdown of income and expenditure of the Fund from 2005-06 to 2009-10

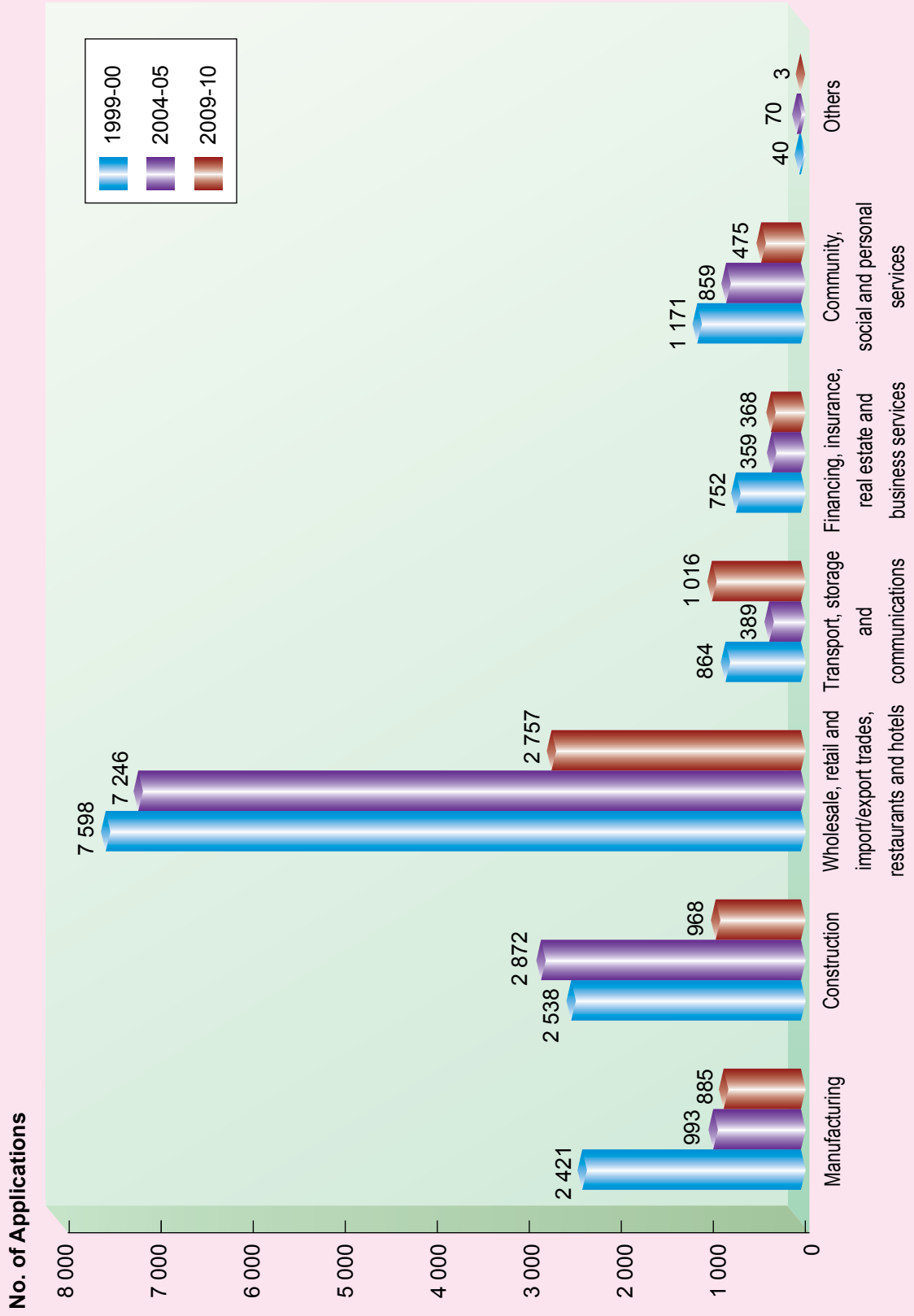
\$ million



**Figure 6**  
*Subrogation income and ex gratia payment of the Fund from 2005-06 to 2009-10*



**Analysis of applications received by economic sector in 1999-2000, 2004-05 and 2009-10**



**2009-10**

週年報告 ANNUAL REPORT

Appendix IX

**Independent Auditors' Report and Audited Financial Statements  
for the year ended 31 March 2010**



**Independent Auditors' Report and Audited Financial  
Statements**

**PROTECTION OF WAGES ON INSOLVENCY FUND**

**31 March 2010**

Ernst & Young

 **ERNST & YOUNG**  
安永

**破產欠薪保障基金委員會**  
**Protection of Wages on Insolvency Fund Board**

PROTECTION OF WAGES ON INSOLVENCY FUND

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| Statement of financial position                   | 4      |
| Statement of changes in funds and reserves        | 5      |
| Statement of cash flows                           | 6      |
| Notes to financial statements                     | 7 - 15 |



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## INDEPENDENT AUDITORS' REPORT

### **To the members of Protection of Wages on Insolvency Fund Board** (Established under the Protection of Wages on Insolvency Ordinance)

We have audited the financial statements of the Protection of Wages on Insolvency Fund (the "Fund") set out on pages 3 to 15, which comprise the statement of financial position as at 31 March 2010, and the statement of comprehensive income and expenditure, the statement of changes in funds and reserves and the statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

#### **Protection of Wages on Insolvency Fund Board's responsibility for the financial statements**

Protection of Wages on Insolvency Fund Board (the "Board") is responsible for the preparation and the true and fair presentation of these financial statements in accordance with Hong Kong Financial Reporting Standards issued by the Hong Kong Institute of Certified Public Accountants and the Protection of Wages on Insolvency Ordinance. This responsibility includes designing, implementing and maintaining internal control relevant to the preparation and the true and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### **Auditors' responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. Our report is made solely to you, as a body, in accordance with the Protection of Wages on Insolvency Ordinance, and for no other purpose. We do not assume responsibility towards or accept liability to any other person for the contents of this report.

We conducted our audit in accordance with Hong Kong Standards on Auditing issued by the Hong Kong Institute of Certified Public Accountants. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance as to whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and true and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Board, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

破產欠薪保障基金委員會  
Protection of Wages on Insolvency Fund Board



INDEPENDENT AUDITORS' REPORT (continued)

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

**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 2010 and of its surplus and cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards and have been properly prepared in accordance with the Protection of Wages on Insolvency Ordinance.

A handwritten signature in cursive script that reads 'Ernst &amp; Young'.

Certified Public Accountants  
Hong Kong  
14 September 2010



PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF COMPREHENSIVE INCOME AND EXPENDITURE

Year ended 31 March 2010

|  | Notes | 2010<br>HK\$              | 2009<br>HK\$              |
|--|-------|---------------------------|---------------------------|
| INCOME   | 3     | <u>467,112,893</u>        | <u>471,241,020</u>        |
| EXPENDITURE  |       |                           |                           |
| Claims   | 4     | 153,730,427               | 129,549,852               |
| Supervision fee  | 5     | 17,517,187                | 17,725,723                |
| Auditors' remuneration                                 |       | 68,000                    | 66,000                    |
| Rates and building management charges                  |       | 227,920                   | 266,796                   |
| Insurance  |       | 6,313                     | 6,313                     |
| Printing and stationery                                |       | 45,250                    | 54,033                    |
| Depreciation   |       | 5,494,937                 | 5,494,935                 |
| Miscellaneous expenses                                 |       | <u>485,517</u>            | <u>520,153</u>            |
| TOTAL EXPENDITURE                                      |       | <u>177,575,551</u>        | <u>153,683,805</u>        |
| SURPLUS AND TOTAL COMPREHENSIVE<br>INCOME FOR THE YEAR | 6     | <u><u>289,537,342</u></u> | <u><u>317,557,215</u></u> |


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Protection of Wages on Insolvency Fund Board

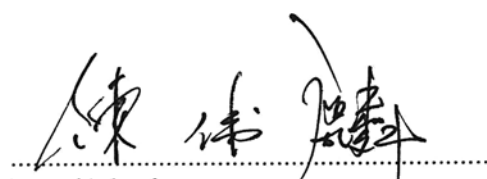
PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF FINANCIAL POSITION

31 March 2010

|                                      | Notes | 2010<br>HK\$         | 2009<br>HK\$         |
|--------------------------------------|-------|----------------------|----------------------|
| <b>NON-CURRENT ASSET</b>             |       |                      |                      |
| Property                             | 9     | -                    | 5,494,937            |
| <b>CURRENT ASSETS</b>                |       |                      |                      |
| Levies receivable                    |       | 52,406,650           | 42,810,100           |
| Interest receivables                 |       | 383,084              | 1,359,449            |
| Sundry deposits                      |       | 35,000               | 35,000               |
| Sundry debtors                       |       | -                    | 174,393              |
| Time deposits                        | 10    | 1,804,696,244        | 1,518,062,119        |
| Cash at banks                        | 10    | 139,747              | 162,593              |
| Total current assets                 |       | <u>1,857,660,725</u> | <u>1,562,603,654</u> |
| <b>CURRENT LIABILITIES</b>           |       |                      |                      |
| Approved claims payable              |       | 4,316,270            | 4,104,681            |
| Accrued operation expenses           |       | 82,713               | 69,510               |
| Accrued supervision fee              | 5     | 17,600,000           | 17,800,000           |
| Total current liabilities            |       | <u>21,998,983</u>    | <u>21,974,191</u>    |
| <b>NET CURRENT ASSETS</b>            |       | <u>1,835,661,742</u> | <u>1,540,629,463</u> |
| Net assets                           |       | <u>1,835,661,742</u> | <u>1,546,124,400</u> |
| <b>FINANCED BY:</b>                  |       |                      |                      |
| Accumulated surplus                  |       | 1,819,122,955        | 1,529,585,613        |
| General reserve                      | 11    | 16,538,787           | 16,538,787           |
| Total accumulated funds and reserves |       | <u>1,835,661,742</u> | <u>1,546,124,400</u> |

  
Chairman

  
Board Member

## PROTECTION OF WAGES ON INSOLVENCY FUND

### STATEMENT OF CHANGES IN FUNDS AND RESERVES

Year ended 31 March 2010

|                                   | Accumulated<br>surplus<br>HK\$ | General<br>reserve<br>HK\$ | Total<br>HK\$               |
|-----------------------------------|--------------------------------|----------------------------|-----------------------------|
| At 1 April 2008                   | 1,212,028,398                  | 16,538,787                 | 1,228,567,185               |
| Surplus for the year              | <u>317,557,215</u>             | <u>-</u>                   | <u>317,557,215</u>          |
| At 31 March 2009 and 1 April 2009 | 1,529,585,613                  | 16,538,787                 | 1,546,124,400               |
| Surplus for the year              | <u>289,537,342</u>             | <u>-</u>                   | <u>289,537,342</u>          |
| At 31 March 2010                  | <u><u>1,819,122,955</u></u>    | <u><u>16,538,787</u></u>   | <u><u>1,835,661,742</u></u> |

破產欠薪保障基金委員會  
Protection of Wages on Insolvency Fund Board

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF CASH FLOWS

Year ended 31 March 2010

|  | Notes | 2010<br>HK\$              | 2009<br>HK\$              |
|--|-------|---------------------------|---------------------------|
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                  |       |                           |                           |
| Surplus for the year   |       | 289,537,342               | 317,557,215               |
| Adjustments for:   |       |                           |                           |
| Bank interest income   | 3     | ( 4,930,922)              | ( 27,083,660)             |
| Depreciation   | 9     | <u>5,494,937</u>          | <u>5,494,935</u>          |
|  |       | 290,101,357               | 295,968,490               |
| Increase in levies receivable                                |       | ( 9,596,550)              | ( 2,409,250)              |
| Decrease in sundry deposits                                  |       | -                         | 3,800                     |
| Decrease/(increase) in sundry debtors                        |       | 174,393                   | ( 72,077)                 |
| Increase/(decrease) in approved claims payable               |       | 211,589                   | ( 692,277)                |
| Increase in accrued operation expenses                       |       | 13,203                    | 4,040                     |
| Increase/(decrease) in accrued supervision fee               |       | <u>( 200,000)</u>         | <u>1,000,000</u>          |
| Net cash flows from operating activities                     |       | <u>280,703,992</u>        | <u>293,802,726</u>        |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>                  |       |                           |                           |
| Interest received  |       | 5,907,287                 | 29,195,244                |
| Increase in fixed deposits with maturity over three months   |       | <u>( 497,106,396)</u>     | <u>( 607,614,351)</u>     |
| Net cash flows used in investing activities                  |       | <u>( 491,199,109)</u>     | <u>( 578,419,107)</u>     |
| <b>NET DECREASE IN CASH AND CASH EQUIVALENTS</b>             |       |                           |                           |
| Cash and cash equivalents at beginning of year               |       | <u>342,342,586</u>        | <u>626,958,967</u>        |
| CASH AND CASH EQUIVALENTS AT END OF YEAR                     |       | <u><u>131,847,469</u></u> | <u><u>342,342,586</u></u> |
| <b>ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS</b>     |       |                           |                           |
| Bank balances  |       | 139,747                   | 162,593                   |
| Time deposits with original maturity of three months or less |       | <u>131,707,722</u>        | <u>342,179,993</u>        |
|  |       | <u><u>131,847,469</u></u> | <u><u>342,342,586</u></u> |

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2010

#### 1. GENERAL INFORMATION

The Protection of Wages on Insolvency Fund (the “Fund”) was established by the Government of the Hong Kong Special Administrative Region 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 include all Hong Kong Financial Reporting Standards, 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 and are presented in Hong Kong dollars.

#### 2.2 CHANGES IN ACCOUNTING POLICIES AND DISCLOSURES

For the year ended 31 March 2010, the Fund adopted, for the first time, HKAS 1 (Revised) “Presentation of Financial Statements” which became effective in 2009 and is applicable to the Fund.

HKAS 1 (Revised) introduces changes in the presentation and disclosures of financial statements. The revised standard introduces the statement of comprehensive income and expenditure, with all items of income and expenditure recognised in the statement of comprehensive income and expenditure, together with all other items of recognised income and expenditure recognised directly in funds and reserves, either in one single statement, or in two linked statements. The Fund has elected to present one single statement.

#### 2.3 ISSUED BUT NOT YET EFFECTIVE HONG KONG FINANCIAL REPORTING STANDARDS

The Fund has not early applied any new and revised HKFRSs, that have been issued but are not yet effective for the year ended 31 March 2010, in these financial statements. The Fund is in the process of making an assessment of the impact of the new and revised HKFRSs upon initial application but is not yet in a position to state whether these new and revised HKFRSs would have a significant impact on the Fund’s results of operations and financial position.

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2010

2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Property and depreciation

The Fund's property is stated at cost less accumulated depreciation and any impairment losses. The cost of the property 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 the property has been put into operation, such as repairs and maintenance, is normally charged as an expenditure in the year in which it is incurred.

Depreciation is calculated on the straight-line basis to write off the cost of the Fund's property over its estimated useful life, which is the shorter of the lease terms and 20 years from the day the property was first used by the Fund.

Residual value, useful life and the depreciation method are reviewed, and adjusted if appropriate, at least at each financial year end.

A property is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss on disposal or retirement recognised as an income or an expenditure in the year the asset is derecognised is the difference between the net sales proceeds and the carrying amount of the relevant asset.

Financial instruments

The Fund classifies its financial instruments into the following categories at inception, depending on the purpose for which the assets were acquired or the liabilities were incurred. The financial assets are recognised using trade date accounting.

(a) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They are initially recorded at fair value plus any directly attributable transaction costs and are subsequently measured at amortised cost using the effective interest rate method, less impairment allowances.

The Fund recognises losses for impaired loans and receivables when there is objective evidence that impairment of a loan and receivable or a portfolio of loans and receivables has occurred. Impairment allowances are assessed either individually for individually significant loans and receivables or collectively for portfolios of loans and receivables with similar credit risk characteristics including those individually assessed balances for which no impairment provision is made on an individual basis.

If, in a subsequent period, the amount of the estimated impairment loss increases or decreases because of an event occurring after the impairment was recognised, the previously recognised impairment loss is increased or reduced by adjusting the allowance account. If a write-off is later recovered, the recovery is credited against expenditures.

## PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2010

## 2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Financial instruments (continued)

## (b) Financial liabilities

Financial liabilities of the Fund include approved claims payable, accrued operation expenses and accrued supervision fee. All such financial liabilities are initially recognised at the fair value of the consideration received less directly attributable transaction costs. After initial recognition, they are subsequently measured at amortised cost using the effective interest rate method.

The fair value of financial instruments that are traded in active markets is determined by reference to quoted market prices or dealer price quotations (bid price for long positions and ask price for short positions), without any deduction for transaction costs. For financial instruments where there is no active market, the fair value is determined using appropriate valuation techniques. Such techniques include using recent arm's length market transactions; reference to the current market value of another instrument which is substantially the same; and a discounted cash flow analysis.

Financial assets are derecognised when the rights to receive cash flows from the assets have expired; or where the Fund has transferred its contractual rights to receive the cash flows of the financial assets and has transferred substantially all the risks and rewards of ownership; or where control is not retained. Financial liabilities are derecognised when they are extinguished, i.e., when the obligation is discharged or cancelled, or expires.

Cash and cash equivalents

For the purpose of the statement of cash flows, cash and cash equivalents comprise cash on hand and demand deposits, and short term highly liquid investments that are readily convertible into known amounts of cash, are subject to an insignificant risk of changes in value, and have a short maturity of generally within three months when acquired, less bank overdrafts which are repayable on demand and form an integral part of the Fund's cash management.

For the purpose of the statement of financial position, cash and cash equivalents comprise bank balances which are not restricted as to use.

Operating leases

Rentals payable under the operating leases are charged as expenditures on the straight-line basis over the lease terms.

Provision

A provision is recognised when a present obligation (legal or constructive) has arisen as a result of a past event and it is probable that a future outflow of resources will be required to settle the obligation, provided that a reliable estimate can be made of the amount of the obligation.

When the effect of discounting is material, the amount recognised for a provision is the present value at the end of the reporting period of the future expenditures expected to be required to settle the obligation. The increase in the discounted present value amount arising from the passage of time is included as an expenditure.

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NOTES TO FINANCIAL STATEMENTS

31 March 2010

2.4 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 from the Inland Revenue Department;
- (b) interest income, accrued on a time proportion 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 of the Commissioner for Labour.

Employee benefits

*Pension scheme*

The Fund operates a defined contribution Mandatory Provident Fund retirement benefit scheme (the "MPF Scheme") under the Mandatory Provident Fund Schemes Ordinance for all those employees who are eligible to participate in the MPF Scheme. Contributions are made based on a percentage of the employees' basic salaries and are charged as expenditures when they become payable in accordance with the rules of the MPF Scheme. The assets of the MPF Scheme are held separately from those of the Fund in an independently administered fund. The Fund's employer contributions vest fully with the employees when contributed into the MPF Scheme in accordance with the rules of the MPF Scheme.

3. INCOME

An analysis of income is as follows:

|                                | 2010<br>HK\$       | 2009<br>HK\$       |
|--------------------------------|--------------------|--------------------|
| Levies                         | 455,081,850        | 439,374,150        |
| Money recovered by subrogation | 7,100,121          | 4,783,210          |
| Bank interest income           | 4,930,922          | 27,083,660         |
|                                | <u>467,112,893</u> | <u>471,241,020</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, levies of HK\$450 and HK\$1,350 are imposed on the issuance of one-year and three-year business registration certificates, respectively, according to the Business Registration Ordinance (Amendment: Levy Reduction) Order 2008.



## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2010

#### 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 four months prior to an applicant's last day of service.

(b) Wages in lieu of notice

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

(c) Severance payment

Not exceeding the aggregate of HK\$50,000 and half of the 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 six 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 Government of the Hong Kong Special Administrative Region 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.

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PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2010

6. SURPLUS FOR THE YEAR

The Fund's surplus for the year is arrived at after charging:

|   | 2010<br>HK\$   | 2009<br>HK\$   |
|---|----------------|----------------|
| Employee benefit expense:                                       |                |                |
| Wages and salaries  | 175,567        | 186,261        |
| Pension scheme contributions                                    | <u>18,839</u>  | <u>27,555</u>  |
|   | <u>194,406</u> | <u>213,816</u> |
| Minimum lease payment under an operating<br>lease of a building | <u>180,000</u> | <u>188,787</u> |

7. REMUNERATION OF MEMBERS OF THE BOARD

No members of the Board received any fees or other emoluments in respect of their services rendered to the Fund during the year (2009: Nil).

8. TAX

The Fund is exempt from Hong Kong taxation.

## PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2010

## 9. PROPERTY

|   | Land and<br>building<br>HK\$ |
|---|------------------------------|
| <b>31 March 2010</b>                              |                              |
| At 31 March 2009 and 1 April 2009:                |                              |
| Cost  | 27,474,677                   |
| Accumulated depreciation                          | <u>(21,979,740)</u>          |
| Net carrying amount                               | <u>5,494,937</u>             |
| At 1 April 2009, net of accumulated depreciation  | 5,494,937                    |
| Depreciation provided during the year             | <u>( 5,494,937)</u>          |
| At 31 March 2010, net of accumulated depreciation | <u>-</u>                     |
| At 31 March 2010:                                 |                              |
| Cost  | 27,474,677                   |
| Accumulated depreciation                          | <u>(27,474,677)</u>          |
| Net carrying amount                               | <u>-</u>                     |
| <b>31 March 2009</b>                              |                              |
| At 1 April 2008:                                  |                              |
| Cost  | 27,474,677                   |
| Accumulated depreciation                          | <u>(16,484,805)</u>          |
| Net carrying amount                               | <u>10,989,872</u>            |
| At 1 April 2008, net of accumulated depreciation  | 10,989,872                   |
| Depreciation provided during the year             | <u>( 5,494,935)</u>          |
| At 31 March 2009, net carrying amount             | <u>5,494,937</u>             |
| At 31 March 2009:                                 |                              |
| Cost  | 27,474,677                   |
| Accumulated depreciation                          | <u>(21,979,740)</u>          |
| Net carrying amount                               | <u>5,494,937</u>             |

The property, which is held under a long term lease, represents the Fund's office premises situated in Hong Kong.

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PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2010

10. CASH AT BANKS AND TIME DEPOSITS

|  | 2010<br>HK\$         | 2009<br>HK\$         |
|--|----------------------|----------------------|
| Bank balances                              | 139,747              | 162,593              |
| Time deposits with original maturity of:   |                      |                      |
| 3 months or less                           | 131,707,722          | 342,179,993          |
| More than 3 months but less than 12 months | <u>1,672,988,522</u> | <u>1,175,882,126</u> |
|  | <u>1,804,835,991</u> | <u>1,518,224,712</u> |

11. GENERAL RESERVE

The levies collected and interest received prior to the establishment of the Protection of Wages on Insolvency Fund have been set aside in the general reserve account.

12. OPERATING LEASE COMMITMENTS

The Fund leases a storeroom under an operating lease arrangement with a lease term of two years at fixed monthly rentals.

At 31 March 2010, the Fund had total future minimum lease payments under the non-cancellable operating lease falling due as follows:

|   | 2010<br>HK\$  | 2009<br>HK\$   |
|---|---------------|----------------|
| Within one year                         | 90,000        | 180,000        |
| In the second to fifth years, inclusive | <u>-</u>      | <u>90,000</u>  |
|   | <u>90,000</u> | <u>270,000</u> |

13. CONTINGENT LIABILITIES

At 31 March 2010, contingent liabilities in respect of claims received but not yet approved and provided for in the financial statements amounted to HK\$169,364,172 (2009: HK\$185,469,363).

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

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2010

#### 14. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES

The Fund's principal financial instruments comprise cash and short term deposits. The Fund has various other financial assets and liabilities such as levies receivable, interest receivables, approved claims payable and accrued supervision fee which arise directly from its operations. The main risks arising from the Fund's financial instruments are credit risk and interest rate risk.

##### *Credit risk*

The Fund's receivable balances are monitored on an ongoing basis and the Fund's exposure to bad debts is insignificant. The Fund's maximum exposure on credit risk arising from the default of the counterparty equal to the carrying amounts of these financial assets in the statement of financial position.

##### *Interest rate risk*

The Fund's major exposure to the risk of changes in market interest rates relates to the Fund's bank balances with floating daily bank deposits rates. The Fund does not currently have any plan to enter into hedge arrangements to manage its interest rate risk.

##### *Capital management*

The primary objective of the Fund's capital management is to safeguard the Fund's ability to continue as a going concern in order to provide ex-gratia payments to employees whose employers have become insolvent.

The Fund manages its capital structure and makes adjustments to it in light of changes in economic conditions. No changes were made in the objectives, policies or processes for managing capital during the years ended 31 March 2010 and 2009.

#### 15. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 14 September 2010.

