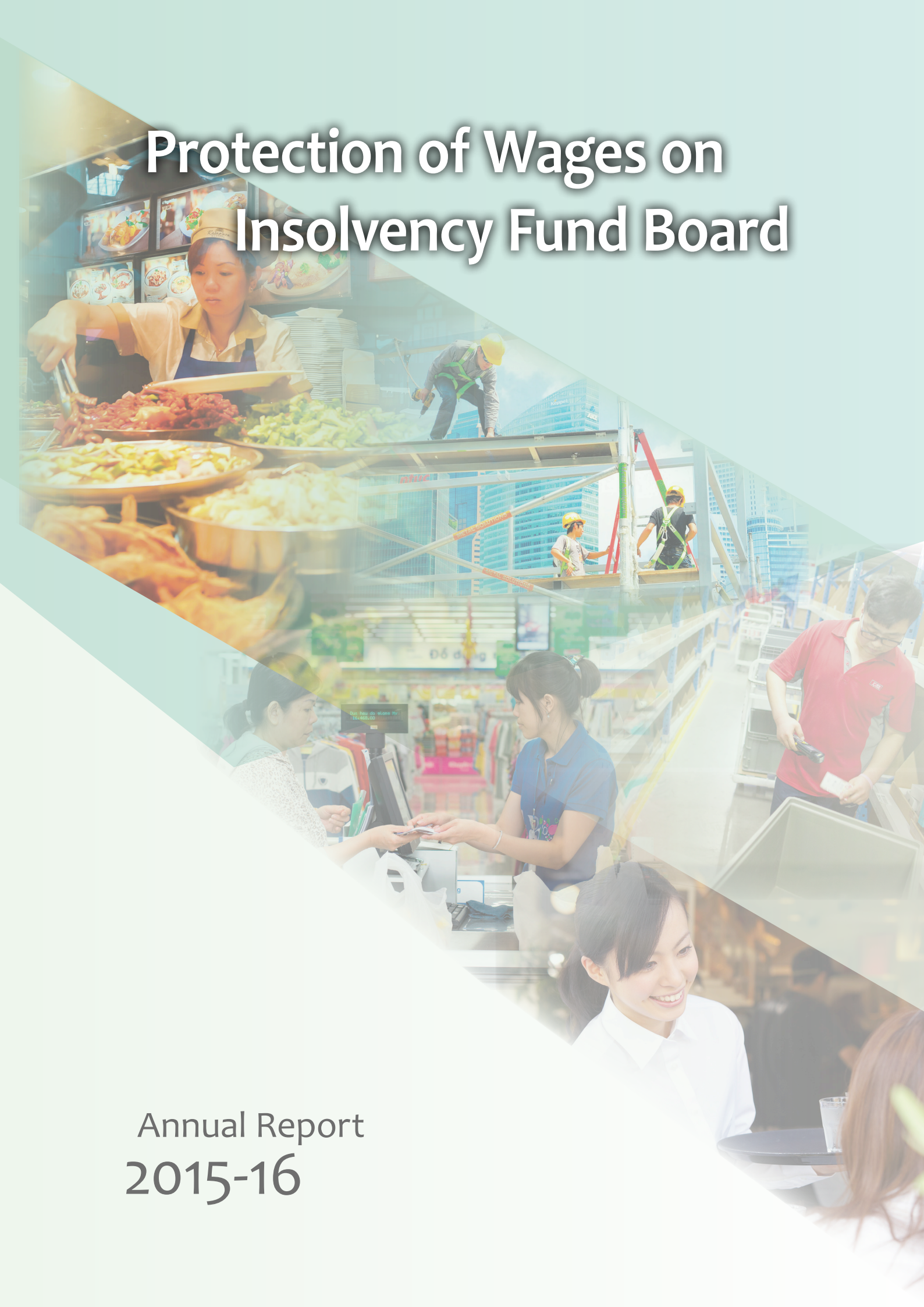


# Protection of Wages on Insolvency Fund Board

Annual Report  
2015-16



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## CHAIRMAN'S FOREWORD

I hereby present the Annual Report of the Protection of Wages on Insolvency Fund Board (the Board) covering the period from 1 April 2015 to 31 March 2016 (the year).

In the year, affected by the slow growth and bleak outlook of the overall economy, the Protection of Wages on Insolvency Fund (the Fund) recorded a rise in the number of employees who were owed wages and other statutory compensation due to business cessation and who sought relief from the Fund. In the year, the Fund received a total of 3 569 applications, an increase of 44% over the figure of 2 477 in the preceding year, and approved 3 145 applications with a total payout of \$68.1 million of ex gratia payment, an increase of 42% and 16% respectively over the figures in the preceding year. During the period, the Board and colleagues of the Wage Security Division of the Labour Department (LD) continued to actively carry out the function of the Fund as a safety net, and provided timely relief to employees aggrieved by the closure of business of their insolvent employers. We conducted a customer opinion survey during the year and are pleased to learn the positive feedback provided by the applicants on both our service and our performance.

All along, the Board has enhanced the scope of protection of the Fund progressively having regard to the financial position of the Fund and the needs of the society. In the year, the Board continued its work of conducting a comprehensive review of the coverage of the Fund, including the coverage of pay for untaken annual leave and pay for untaken statutory holidays which were added under the Protection of Wages on Insolvency (Amendment) Ordinance 2012, as well as all other payment items under the Fund, including wages, wages in lieu of notice and severance payment.

The Board has the statutory functions of administering the Fund and making recommendations to the Chief Executive with respect to the rate of levy on Business Registration Certificates (BRC) financing the Fund. In this respect, the Board has been monitoring closely the financial position of the Fund, and in the year has re-examined the deposit arrangement of the Fund. The Fund



has a surplus of \$224.9 million in this year and an accumulative surplus of \$4,278.1 million by the end of March 2016. The Board, having regard to the healthy financial position of the Fund, also continued its review of the rate of levy on BRC in the year.

Alongside with providing prompt relief to employees affected by the business cessation of their employers, we also need to safeguard the Fund against any possible abuse. The inter-departmental Task Force (the Task Force) comprising representatives of LD, the Commercial Crime Bureau of the Police, the Official Receiver's Office (ORO) and the Legal Aid Department (LAD) continued to spare no efforts in proactively investigating and pursuing cases involving possible abuse of the Fund. The concerted actions of various government departments demonstrated to the community that any attempt to defraud the Fund would never be tolerated.

Faced with an increasing trend in the number of applications and the challenges of a setback in the overall economic environment, I am glad that all members have offered valuable inputs and provided unanimously support in the administration of the Fund. I would like to express my most sincere thanks to them. We will continue to strive for appropriate relief to the applicants. Last but not least, on behalf of the Board, I would like to extend our heartfelt appreciation to all our working partners, including LD, LAD, ORO, the Police and the Inland Revenue Department, for their continued support to the Board in keeping the Fund in effective operation and thereby contributing to the society.

Dr. David WONG Yau-kar, BBS, JP  
Chairman  
Protection of Wages on Insolvency Fund Board

September 2016

# MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2015-16

## Chairman

Dr. David WONG Yau-kar, BBS, JP

## Members

### Representing employees

Mr. HUNG Hing-chu

Hon. POON Siu-ping, BBS, MH

Ms. LEUNG Fong-yuen

### Representing employers

Mr. Mark LIN, JP

Mrs. CHOI KWAN Wing-kum, MH

Mr. FUNG Hau-chung, JP

### Representing government departments

Assistant Commissioner for Labour of the Labour Department  
responsible for wage security matters

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 2015-16



**Dr. David WONG Yau-kar, BBS, JP**  
Chairman



**Mr. HUNG Hing-chu**  
Representing employees



**Hon. POON Siu-ping, BBS, MH**  
Representing employees



**Ms. LEUNG Fong-yuen**  
Representing employees



**Mr. Mark LIN, JP**  
Representing employees



**Mrs. CHOI KWAN Wing-kum, MH**  
Representing employees



**Mr. FUNG Hau-chung, JP**  
Representing employees



**Mr. William MAK Chi-tung**  
Assistant Commissioner  
(Employees' Rights and Benefits)  
Labour Department



**Ms. Ophelia LOK Pui-man**  
Assistant Principal Solicitor  
Official Receiver's Office



**Mr. Ben LI Chi-keung**  
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 2016.

## **PROTECTION OF WAGES ON INSOLVENCY FUND BOARD**

The Ordinance provides that the Board shall consist of a chairman and not more than ten 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 on Business Registration Certificates; 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 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, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays 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 the items that could be deemed to be wages, namely, holiday pay, annual leave pay, end of year payment, maternity leave pay, paternity leave pay and sickness allowance);
- (b) wages in lieu of notice up to one month's wages or \$22,500, whichever is less;
- (c) severance payment under the Employment Ordinance up to \$50,000 plus 50% of any entitlement in excess of \$50,000; and
- (d) pay for untaken annual leave and pay for untaken statutory holidays, including (i) pay for any annual leave under the Employment Ordinance earned in the employee's last full leave year and not yet taken and, where the employee has at least three but less than 12 months' service in the last leave year, pro rata annual leave pay to which the employee is entitled upon termination of employment contract; and (ii) pay for statutory holidays to which the employee is entitled but has not yet taken within four months before his last day of service. Neither (i) nor (ii), nor the total amount of them, may exceed \$10,500.

## **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 against the employer 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 Commissioner for Labour or his authorised officers 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, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays, his rights and remedies under the Companies (Winding Up and Miscellaneous Provisions) 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 2015-16, 3 569 applications involving ex gratia payment of \$248.7 million were received from employees. A total of 425 suspected insolvency cases were recorded. Detailed breakdown of the applications is at **Appendix I**.

Of the 425 suspected insolvency cases, 407 involved less than 20 employees per case, ten involved 20 to 49 employees per case, two involved 50 to 99 employees per case, and the remaining six each involved 100 employees or more.

During the year, the construction industry recorded the largest number of applications, with 724 applications involving a total amount of \$23.8 million. This was followed by the retail trade with 535 applications and a total amount of \$42.2 million, and food and beverage service activities with 495 applications and a total amount of \$14.0 million. These three trades accounted for 49.1% of all applications and 32.2% of the total amount applied for.



Out of the total 3 569 applicants in the year, 2 876 applied for ex gratia payment on arrears of wages, 2 834 applied for payment on wages in lieu of notice, 1 285 applied for payment on severance payment and 2 232 applied for payment on untaken annual leave and untaken statutory holidays. Breakdowns of these applications are at **Appendices II, III, IV and V**.

### **Applications processed**

A total of 3 145 applications were approved during the year, resulting in payment amounting to \$68.1 million. Out of these, a total payment of \$19.7 million was made to 771 applicants under section 16(1)(a)(ii) or section 18(1) of the Ordinance where presentation of a bankruptcy or winding-up petition was not required.

An analysis of ex gratia payment approved is at **Appendix VI**. As indicated at **Appendix VII**, the amount applied for was met in full in respect of 74.2% of applicants for arrears of wages, 95.2% of applicants for wages in lieu of notice, 32.6% of applicants for severance payment, and 52.9% of applicants for pay for untaken annual leave and/or pay for untaken statutory holidays.

The Commissioner for Labour rejected 65 applications involving a total amount of \$8.3 million, mostly for reasons such as claims without legal backing, insufficient evidence, or the applicants being registered company directors. At the same time, 266 applications involving a total amount of \$19.1 million were withdrawn, mainly as a result of direct settlement between employees and their employers or liquidators.

**Appendices VIII and IX** 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 the Fund's performance and financial statements, projection of income and expenditure, review of the coverage of the existing items under the Fund and the rate of levy on Business Registration Certificates, deposit arrangement of the Fund and conduction of the customer opinion survey.

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

During the year, the Fund received a total income of \$416.2 million, of which \$355.7 million was levy income. The total expenditure was \$191.3 million, of which a total of \$68.1 million was paid out as ex gratia payment. The Fund registered a surplus of \$224.9 million as compared with a surplus of \$340.1 million in the previous financial year. As at 31 March 2016, the Fund's accumulated surplus stood at \$4,278.1 million.

A copy of the independent auditors' report and the audited financial statements for the year ended 31 March 2016 is at **Appendix X**.

## ACTIVITIES HIGHLIGHT

### Customer Opinion Survey

The Board has in collaboration with the Labour Department, conducted a customer opinion survey from November 2015 to February 2016. Feedback from the applicants showed that they were in general satisfied with the services provided by the Labour Department. The survey findings were presented to the Board at its meeting on 27 June 2016.

### Publicity and promotion for the Fund

During the year, the Labour Department continued to carry out various activities, including staging six exhibitions in different districts to promote the Employment Ordinance. In these exhibitions, the Fund, the provisions of the Ordinance and matters relating to employees' applications for ex gratia payment from the Fund were also publicised.

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 cases involving possible abuse of the Fund by employers and employees.

During the year 2015-16, the court disqualified a total of eight company responsible persons involving abuse of the Fund from being directors or taking part in the promotion, formation or management of a company, with the disqualification period ranging from one and a half year to four years. Apart from the above, the Labour Department adopted a multi-pronged enforcement strategy to guard against the possibility of cases of non-payment of wages evolving into applications for the Fund. In the same period, there were 510 convicted summonses in respect of wage offences. Of these, 200 convictions were against company directors and responsible persons.

# APPENDICES





## Operating results of the Protection of Wages on Insolvency Fund in 2015-16

<b>I. Breakdown of applications by result</b>					
(1) No. of cases received				425	
(2) No. of applications					
(i) b/f last period				1 012	
received this period				3 569	
reconsidered this period				10	
				4 591	
(ii) processed				3 476	
<i>approved</i>				3 145	
<i>refused</i>				65	
<i>withdrawn</i>				266	
outstanding				1 101	
put aside *				14	
				4 591	
(3) Amount of ex gratia payment (in HK\$'000) applied for	<b>Arrears of wages</b>	<b>Wages in lieu of notice</b>	<b>Severance payment</b>	<b>Pay for untaken annual leave and/or pay for untaken statutory holidays</b>	<b>HK\$'000</b>
(i) b/f last period					72,662
received this period	92,541 +	35,421 +	104,163 +	16,577 =	248,702
reconsidered this period	1,215 +	63 +	210 +	619 =	2,107
					323,471
(ii) approved	36,791 +	18,756 +	6,039 +	6,469 =	68,055
screened					99,026
refused					8,290
withdrawn					19,085
outstanding } put aside * }					129,015
					323,471
(4) No. of applications seeking review by the Fund Board					0
<b>II. Presentation of petition in relation to applications approved</b>					
(1) No. of applications where a winding-up petition has been made					2 327
(2) No. of applications where a bankruptcy petition has been made					47
(3) No. of applications dealt with under S.18(1) of the Protection of Wages on Insolvency Ordinance					759
(4) No. of applications dealt with under S.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance					12
					3 145

\* Cases pending private settlement or withdrawal.

## Operating results of the Protection of Wages on Insolvency Fund in 2015-16

### III. Breakdown of cases by employment size

(1) Less than 20 employees	407
(2) 20 ~ 49 employees	10
(3) 50 ~ 99 employees	2
(4) 100 or more employees	6
	425

### 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, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<i>Division A</i>	<i>Agriculture, forestry and fishing</i>	1	(1)	\$ 41,526.42
<i>Division B</i>	<i>Mining and quarrying</i>	1	(1)	\$ 267,735.62
<i>Division C</i>	<i>Manufacturing</i>			
Sub-group				
11	Manufacture of beverages	5	(1)	\$ 944,876.03
13	Manufacture of textiles	21	(6)	\$ 3,235,203.17
14	Manufacture of wearing apparel	10	(2)	\$ 699,531.18
15	Manufacture of leather and related products	7	(1)	\$ 329,992.99
16	Manufacture of wood and of products of wood and cork, articles of straw and plaiting materials (except furniture and toys)	1	(1)	\$ 119,250.00
17	Manufacture of paper and paper products	12	(1)	\$ 2,985,276.18
18	Printing and reproduction of recorded media	16	(4)	\$ 865,232.45
20	Manufacture of chemicals and chemical products	2	(1)	\$ 575,925.00
22	Manufacture of rubber and plastics products (except furniture, toys, sports goods and stationery)	24	(5)	\$ 4,694,366.27
25	Manufacture of fabricated metal products (except machinery and equipment)	1	(0) <sup>#</sup>	\$ 9,000.00
26	Manufacture of computer, electronic and optical products	1	(1)	\$ 395,171.23
27	Manufacture of electrical equipment	11	(3)	\$ 1,979,316.44
31	Manufacture of furniture	1	(1)	\$ 24,838.70
32	Other manufacturing	15	(4)	\$ 1,945,541.23
33	Repair and installation of machinery and equipment	5	(1)	\$ 229,513.06

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

### Operating results of the Protection of Wages on Insolvency Fund in 2015-16

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants		Amount claimed (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<i>Division D</i>	<i>Electricity and gas supply</i>	2	(2)	\$ 107,367.72
<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	2	(0) <sup>#</sup>	\$ 85,305.21
39	Remediation activities and other waste management services	1	(1)	\$ 1,022.00
<i>Division F</i>	<i>Construction</i>	724	(71)	\$ 23,790,329.18
<i>Division G</i>	<i>Import/export, wholesale and retail trades</i>			
Sub-group				
45	Import and export trade	289	(76)	\$ 39,750,567.02
46	Wholesale	20	(7)	\$ 1,562,041.46
47	Retail trade	535	(22)	\$ 42,182,455.20
<i>Division H</i>	<i>Transportation, storage, postal and courier services</i>			
Sub-group				
49	Land transport	50	(11)	\$ 4,437,225.98
50	Water transport	1	(1)	\$ 161,647.30
51	Air transport	20	(1)	\$ 474,573.27
52	Warehousing and support activities for transportation	11	(5)	\$ 1,804,075.53
53	Postal and courier activities	1	(1)	\$ 8,000.00
<i>Division I</i>	<i>Accommodation and food service activities</i>			
Sub-group				
55	Short term accommodation activities	6	(1)	\$ 141,287.87
56	Food and beverage service activities	495	(69)	\$ 13,999,973.93

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

# All the applicants were of late applications of case(s) in the preceding year.

**Operating results of  
the Protection of Wages on Insolvency Fund in 2015-16**

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants		Amount claimed (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<i>Division J</i>	<i>Information and communications</i>			
Sub-group				
58	Publishing activities	7	(4)	\$ 452,912.56
59	Motion picture, video and television programme production, sound recording and music publishing activities	5	(3)	\$ 170,457.08
60	Programming and broadcasting activities	388	(2)	\$ 64,699,681.00
61	Telecommunications	3	(2)	\$ 75,290.77
62	Information technology service activities	72	(10)	\$ 9,847,306.98
63	Information service activities	40	(2)	\$ 1,158,520.56
<i>Division K</i>	<i>Financial and insurance activities</i>			
Sub-group				
64	Financial service activities (except insurance and pension funding)	65	(24)	\$ 5,196,095.44
65	Insurance	3	(0) <sup>#</sup>	\$ 497,612.02
<i>Division L</i>	<i>Real estate activities</i>	14	(3)	\$ 928,978.49
<i>Division M</i>	<i>Professional, scientific and technical activities</i>			
Sub-group				
69	Legal and accounting activities	2	(0) <sup>#</sup>	\$ 140,799.92
70	Activities of head offices; management and management consultancy activities	10	(6)	\$ 792,878.99
71	Architecture and engineering activities, technical testing and analysis	1	(1)	\$ 8,190.00
74	Advertising and market research	4	(3)	\$ 210,927.55
75	Other professional, scientific and technical activities	14	(1)	\$ 1,447,042.25

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

# All the applicants were of late applications of case(s) in the preceding year.

### Operating results of the Protection of Wages on Insolvency Fund in 2015-16

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants		Amount claimed (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<i>Division N</i>	<i>Administrative and support service activities</i>			
Sub-group				
78	Employment activities	3	(2)	\$ 63,336.38
79	Travel agency, reservation service and related activities	10	(3)	\$ 609,435.36
80	Security and investigation activities	80	(1)	\$ 1,571,851.25
82	Office administrative, office support and other business support activities	9	(2)	\$ 857,379.44
<i>Division P</i>	<i>Education</i>	14	(8)	\$ 834,485.81
<i>Division Q</i>	<i>Human health and social work activities</i>			
Sub-group				
86	Human health activities	16	(7)	\$ 735,811.46
<i>Division R</i>	<i>Arts, entertainment and recreation</i>			
Sub-group				
90	Creative and performing arts activities	10	(1)	\$ 37,142.10
91	Libraries, archives, museums and other cultural activities	420	(4)	\$ 3,561,955.07
93	Sports and other entertainment activities	2	(1)	\$ 70,090.28
<i>Division S</i>	<i>Other service activities</i>			
Sub-group				
94	Activities of membership organisations	3	(1)	\$ 1,607,351.89
95	Repair of motor vehicles, motorcycles, computers, personal and household goods	2	(2)	\$ 599,413.21
96	Other personal service activities	66	(16)	\$ 3,037,342.62
<i>Division T</i>	<i>Work activities within domestic households</i>			
Sub-group				
97	Activities of households as employers of domestic personnel	12	(12)	\$ 193,228.85
<i>Division U</i>	<i>Activities of extraterritorial organisations and bodies</i>	3	(2)	\$ 1,448,140.94
Total :		3 569	(425)	\$ 248,701,825.91

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 2015-16

### A. By amount

(including overtime pay and items that could be deemed to be wages)

Amount	No. of applicants	Percentage
No entitlement/Not applied for	693	19.42
\$8,000 <sup>^</sup> or less	870	24.38
\$8,001 - \$18,000	687	19.25
\$18,001 - \$24,000	279	7.82
\$24,001 - \$27,000	135	3.78
\$27,001 - \$30,000	103	2.89
\$30,001 - \$33,000	109	3.05
\$33,001 - \$36,000 <sup>+</sup>	84	2.35
\$36,001 - \$39,000	79	2.21
More than \$39,000	530	14.85
Total :	3 569	100.00

### B. By period of outstanding wages

(excluding overtime pay and items that could be deemed to be wages)

Period	No. of applicants	Percentage
No entitlement/Not applied for	830	23.26
Half month or less	249	6.98
More than 1/2 month to 1 month	618	17.32
More than 1 month to 2 months	1 337	37.46
More than 2 months to 3 months	313	8.77
More than 3 months to 4 months <sup>+</sup>	79	2.21
More than 4 months	143	4.00
Total :	3 569	100.00

<sup>^</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) 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, i.e. not exceeding \$36,000 or four months' wages, whichever is less.

## Breakdown of applications for ex gratia payment on wages in lieu of notice received in 2015-16

### A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not applied for	735	20.59
\$2,000 <sup>‡</sup> or less	224	6.28
\$2,001 - \$6,000	1 134	31.77
\$6,001 - \$10,000	352	9.86
\$10,001 - \$15,000	395	11.07
\$15,001 - \$22,500 <sup>Ⓜ</sup>	366	10.25
\$22,501 - \$25,000	73	2.05
More than \$25,000	290	8.13
Total :	3 569	100.00

### B. By notice period

Notice period	No. of applicants	Percentage
No entitlement/Not applied for	735	20.59
1 day - 7 days	1 012	28.36
8 days - 14 days	115	3.22
15 days	5	0.14
16 days - less than 1 month	68	1.91
1 month <sup>‡Ⓜ</sup>	1 540	43.15
More than 1 month	94	2.63
Total :	3 569	100.00

<sup>‡</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) 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 less.

## Breakdown of applications for ex gratia payment on severance payment<sup>Ⓜ</sup> received in 2015-16

### A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not applied for	2 284	64.00
\$8,000 <sup>*</sup> or less	56	1.57
\$8,001 - \$36,000	404	11.32
\$36,001 - \$50,000	182	5.10
\$50,001 - \$80,000	222	6.22
\$80,001 - \$110,000	142	3.98
\$110,001 - \$140,000	78	2.19
\$140,001 - \$170,000	58	1.63
\$170,001 - \$200,000	29	0.81
\$200,001 - \$250,000	45	1.26
\$250,001 - \$300,000	24	0.67
\$300,001 - \$350,000	12	0.34
\$350,001 - \$370,000	5	0.14
\$370,001 - \$390,000	21	0.58
More than \$390,000	7	0.19
Total :	3 569	100.00

### B. By length of service

Length of service	No. of applicants	Percentage
Not applied for or less than 2 years' service	2 295	64.30
2 - 4.99 years	604	16.92
5 - 5.99 years	126	3.53
6 - 6.99 years	96	2.69
7 - 7.99 years	61	1.71
8 - 8.99 years	43	1.20
9 - 9.99 years	42	1.18
10 - 14.99 years	141	3.95
15 - 19.99 years	77	2.16
20 - 24.99 years	44	1.23
25 - 29.99 years	24	0.67
30 - 34.99 years	8	0.22
35 - 38.99 years	6	0.17
39 - 40.99 years	0	0.00
41 - 42.99 years	2	0.07
43 years' service and over	0	0.00
Total :	3 569	100.00

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

<sup>\*</sup> Preferential limit under the Companies (Winding Up and Miscellaneous Provisions) 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.



## Breakdown of applications for ex gratia payment on pay for untaken annual leave and pay for untaken statutory holidays received in 2015-16

### A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not applied for	1 337	37.46
\$2,000 or less	655	18.35
\$2,001 - \$4,000	559	15.66
\$4,001 - \$6,000	320	8.97
\$6,001 - \$8,000	192	5.38
\$8,001 - \$10,500 <sup>⊛</sup>	145	4.06
\$10,501 - \$20,000	203	5.69
More than \$20,000	158	4.43
Total :	3 569	100.00

### B. By leave year of pay for untaken annual leave

Leave year	No. of applicants	Percentage
No entitlement/Not applied for	1 358	38.05
1 year or less	1 208	33.85
More than 1 year to less than 2 years <sup>⊛</sup>	557	15.60
2 years or above	446	12.50
Total :	3 569	100.00

### C. By period involved in pay for untaken statutory holidays

Period	No. of applicants	Percentage
No entitlement/Not applied for	3 224	90.33
2 months or less	199	5.58
More than 2 months to 4 months <sup>⊛</sup>	30	0.84
More than 4 months	116	3.25
Total :	3 569	100.00

<sup>⊛</sup> Maximum amount of ex gratia payment on pay for untaken annual leave and pay for untaken statutory holidays under the Protection of Wages on Insolvency Ordinance, i.e. not exceeding the last two leave years' pay for untaken annual leave and/or four months' pay for untaken statutory holidays, with total maximum amount at \$10,500.

## Analysis of ex gratia payment approved in 2015-16

### A. Analysis of payment approved for arrears of wages

(including overtime pay and items that could be deemed to be wages)

Amount	No. of applicants	Percentage
Not applied for/Not approved	661	21.02
\$4,000 or less	511	16.25
\$4,001 - \$8,000	432	13.74
\$8,001 - \$10,000	157	4.99
\$10,001 - \$12,000	166	5.28
\$12,001 - \$14,000	147	4.67
\$14,001 - \$16,000	142	4.52
\$16,001 - \$18,000	128	4.07
\$18,001 - \$28,000 <sup>⊕</sup>	332	10.56
\$28,001 - \$36,000	469	14.90
Total :	3 145	100.00

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

Amount	No. of applicants	Percentage
Not applied for/Not approved	652	20.73
\$2,000 or less	290	9.22
\$2,001 - \$3,000	313	9.95
\$3,001 - \$4,000	423	13.45
\$4,001 - \$5,000	319	10.14
\$5,001 - \$6,000	184	5.85
\$6,001 - \$10,000	322	10.24
\$10,001 - \$22,500 <sup>†</sup>	642	20.42
Total :	3 145	100.00

### C. Analysis of payment approved for severance payment

Amount	No. of applicants	Percentage
Not applied for/Not approved	2 499	79.46
\$8,000 or less	395	12.56
\$8,001 - \$22,000	203	6.45
\$22,001 - \$36,000	21	0.67
\$36,001 - \$50,000	11	0.35
\$50,001 - \$80,000	15	0.48
\$80,001 - \$110,000	1	0.03
\$110,001 - \$140,000	0	0.00
\$140,001 - \$170,000	0	0.00
\$170,001 - \$200,000	0	0.00
\$200,001 - \$210,000 <sup>‡</sup>	0	0.00
\$210,001 - \$220,000 <sup>*</sup>	0	0.00
Total :	3 145	100.00

<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 ex gratia payment approved in 2015-16

### D. Analysis of payment approved for pay for untaken annual leave and pay for untaken statutory holidays

Amount	No. of applicants	Percentage
Not applied for/Not approved	1 445	45.95
\$1,000 or less	220	7.00
\$1,001 - \$3,000	656	20.86
\$3,001 - \$5,000	349	11.10
\$5,001 - \$7,000	208	6.61
\$7,001 - \$10,500 <sup>†</sup>	267	8.48
Total :	3 145	100.00

<sup>†</sup> The maximum amount of ex gratia payment out of the Fund on pay for untaken annual leave and pay for untaken statutory holidays.

**Analysis of approved ex gratia payment  
as percentage of the amount applied for by applicants in 2015-16**

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

Approved payment as percentage of the amount applied for	Percentage of applicants
100%	74.22
90% or above	76.22
80% or above	79.22
70% or above	81.91
60% or above	84.31
50% or above	86.91
40% or above	89.51
30% or above	92.55
20% or above	96.60
10% or above	99.08
5% or above	99.92

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

Approved payment as percentage of the amount applied for	Percentage of applicants
100%	95.17
90% or above	95.41
80% or above	95.77
70% or above	96.05
60% or above	97.13
50% or above	99.76
40% or above	99.84
30% or above	99.92
20% or above	99.92
10% or above	100.00

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

Approved payment as percentage of the amount applied for	Percentage of applicants
100%	32.62
90% or above	39.18
80% or above	42.99
70% or above	48.32
60% or above	56.10
50% or above	61.28

**Analysis of approved ex gratia payment  
as percentage of the amount applied for by applicants in 2015-16**

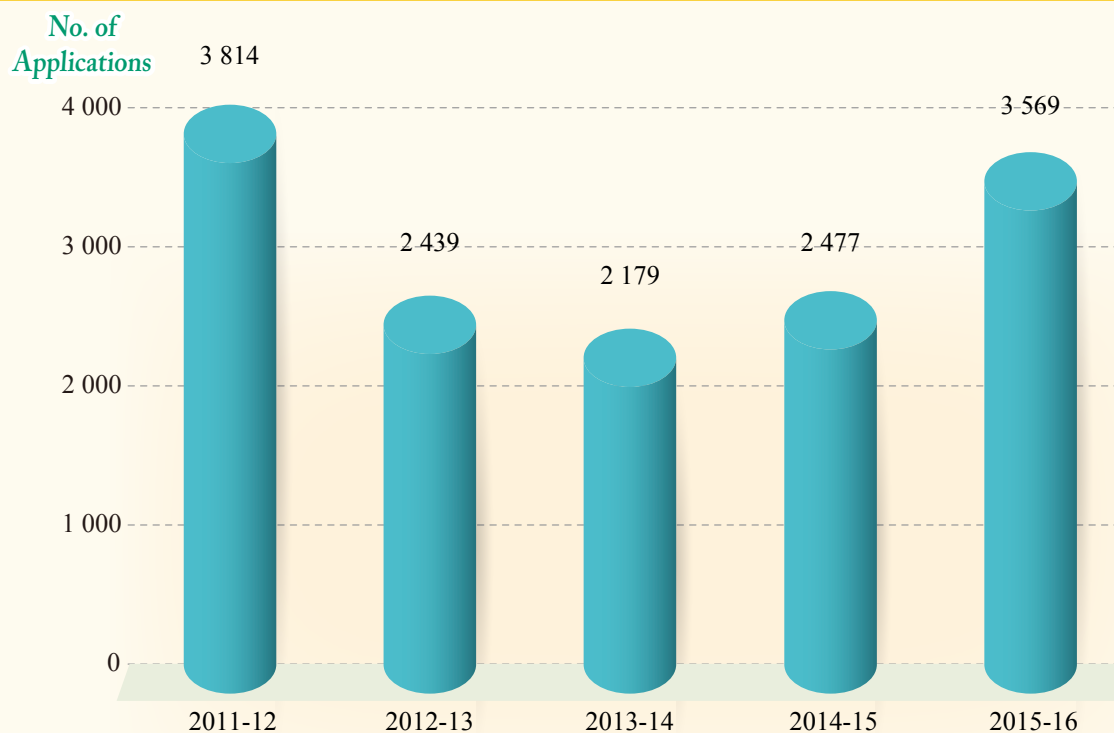
**D. Pay for untaken annual leave and/or pay for untaken statutory holidays at maximum payment of \$10,500**

Approved payment as percentage of the amount applied for	Percentage of applicants
100%	52.86
90% or above	60.28
80% or above	66.65
70% or above	72.96
60% or above	80.49
50% or above	87.09
40% or above	91.47
30% or above	94.74
20% or above	98.19
10% or above	99.59
5% or above	99.88

## Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2011-12 to 2015-16

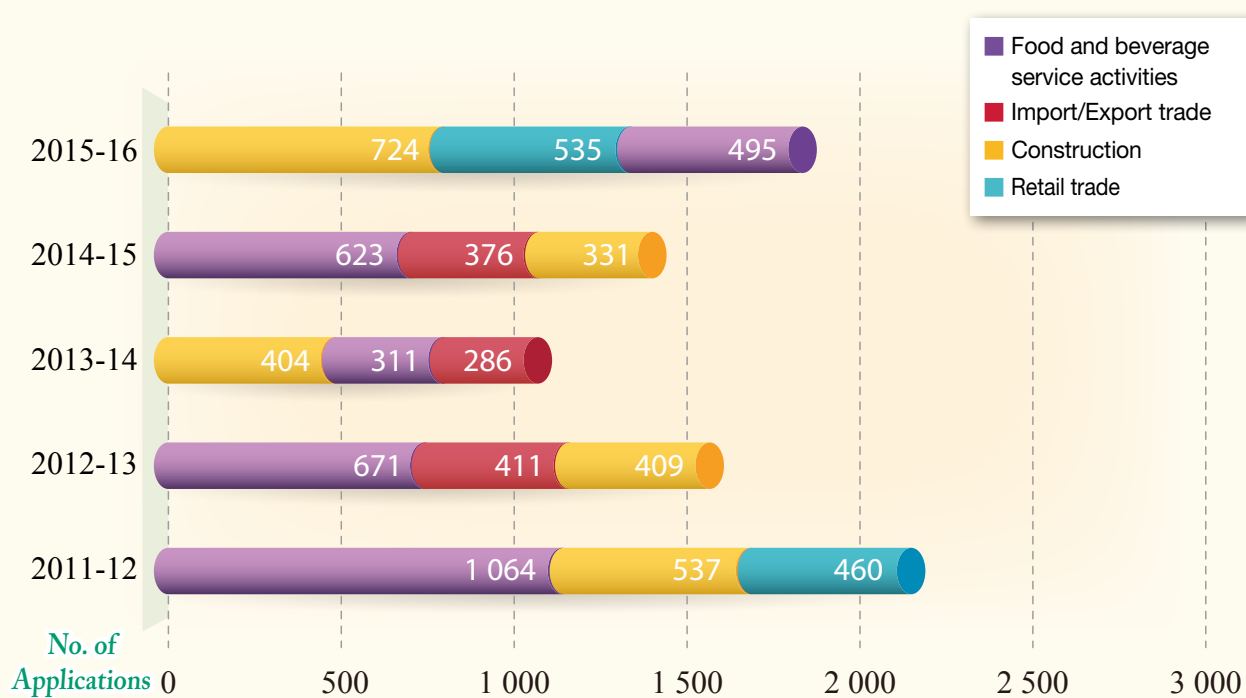
**Figure 1**

Number of applications received by the Fund from 2011-12 to 2015-16



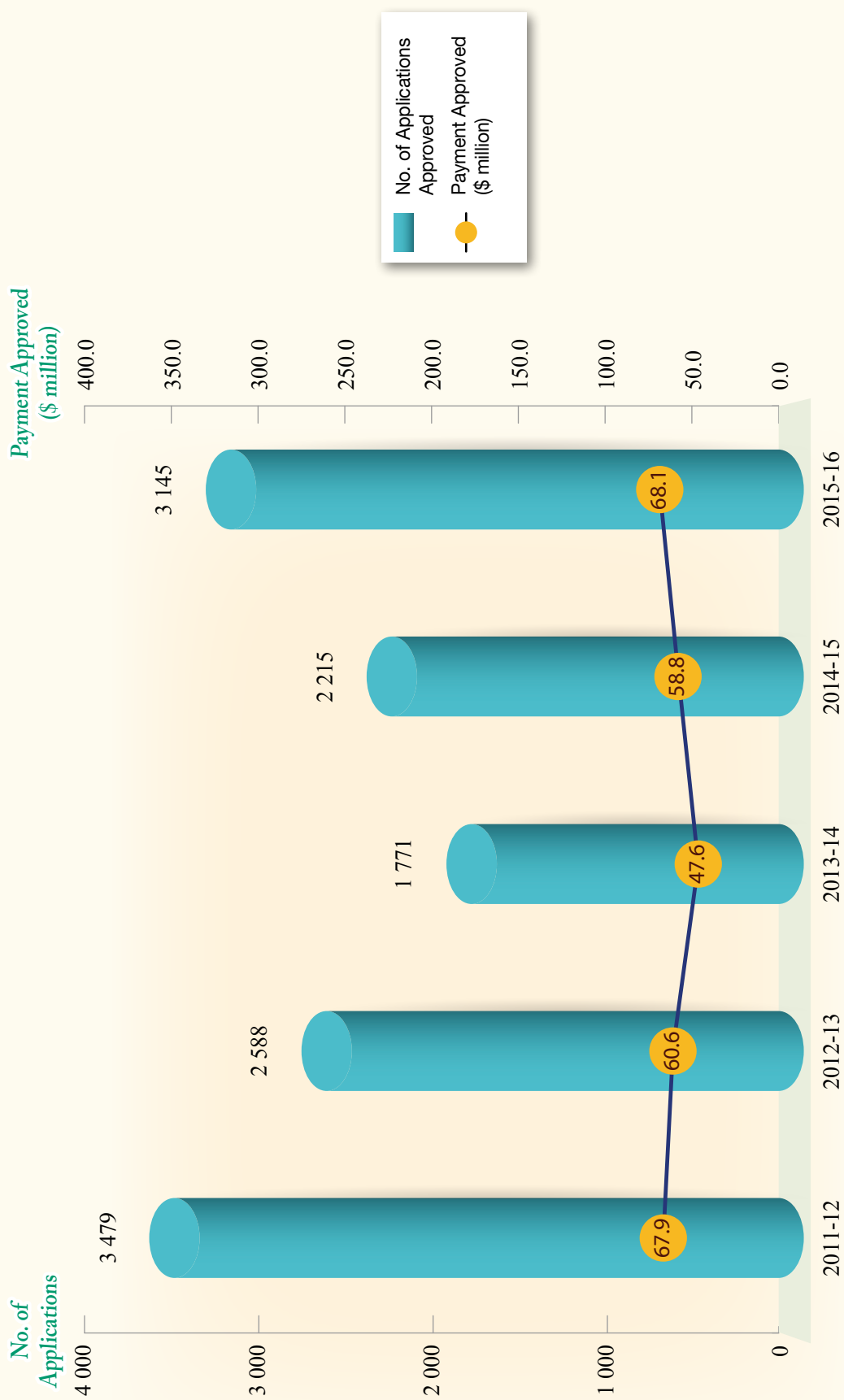
**Figure 2**

First three industries with the largest number of applications received from 2011-12 to 2015-16



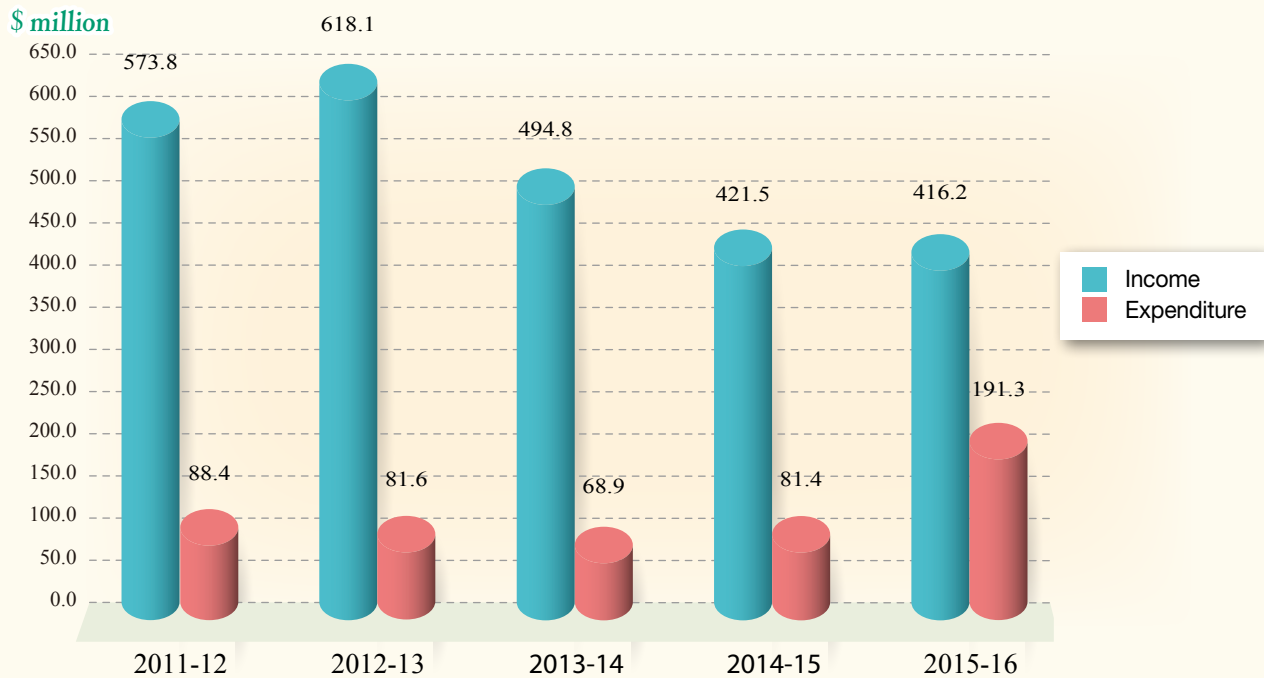
**Figure 3**

Number of applications and amount of ex gratia payment approved from 2011-12 to 2015-16

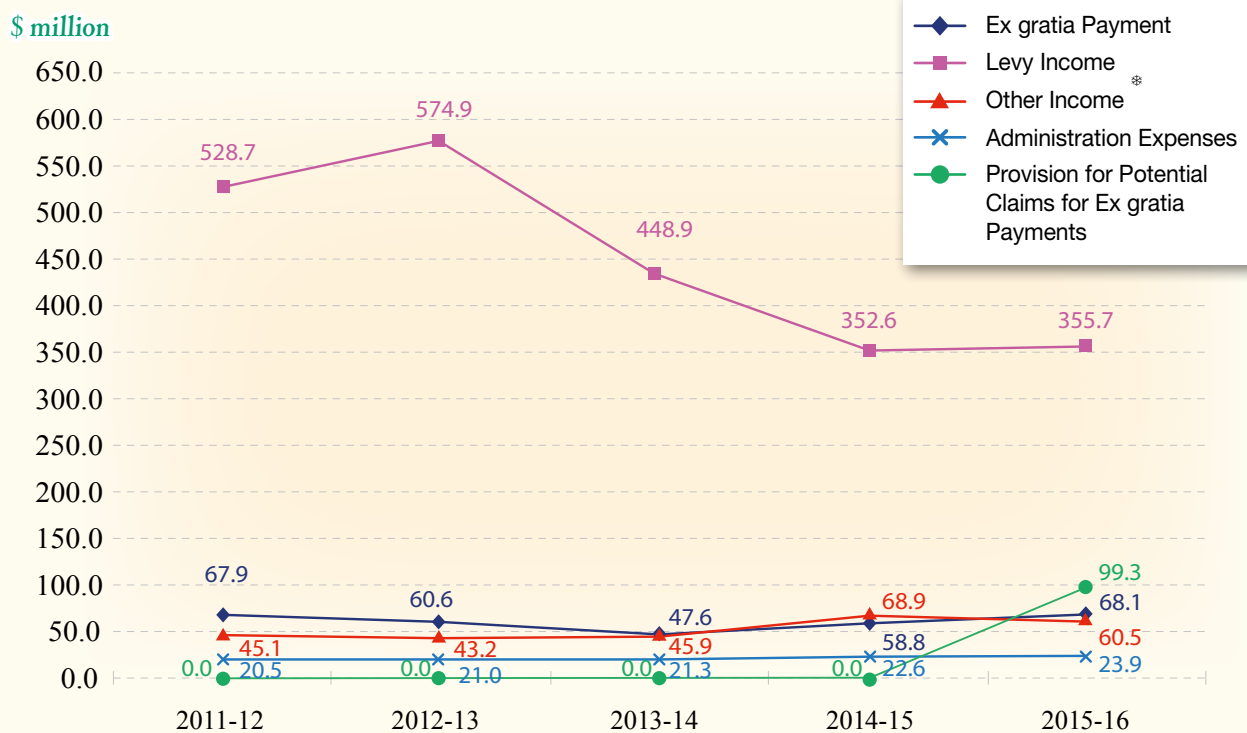


**Figure 4**

Total income and expenditure of the Fund from 2011-12 to 2015-16

**Figure 5**

Breakdown of income and expenditure of the Fund from 2011-12 to 2015-16

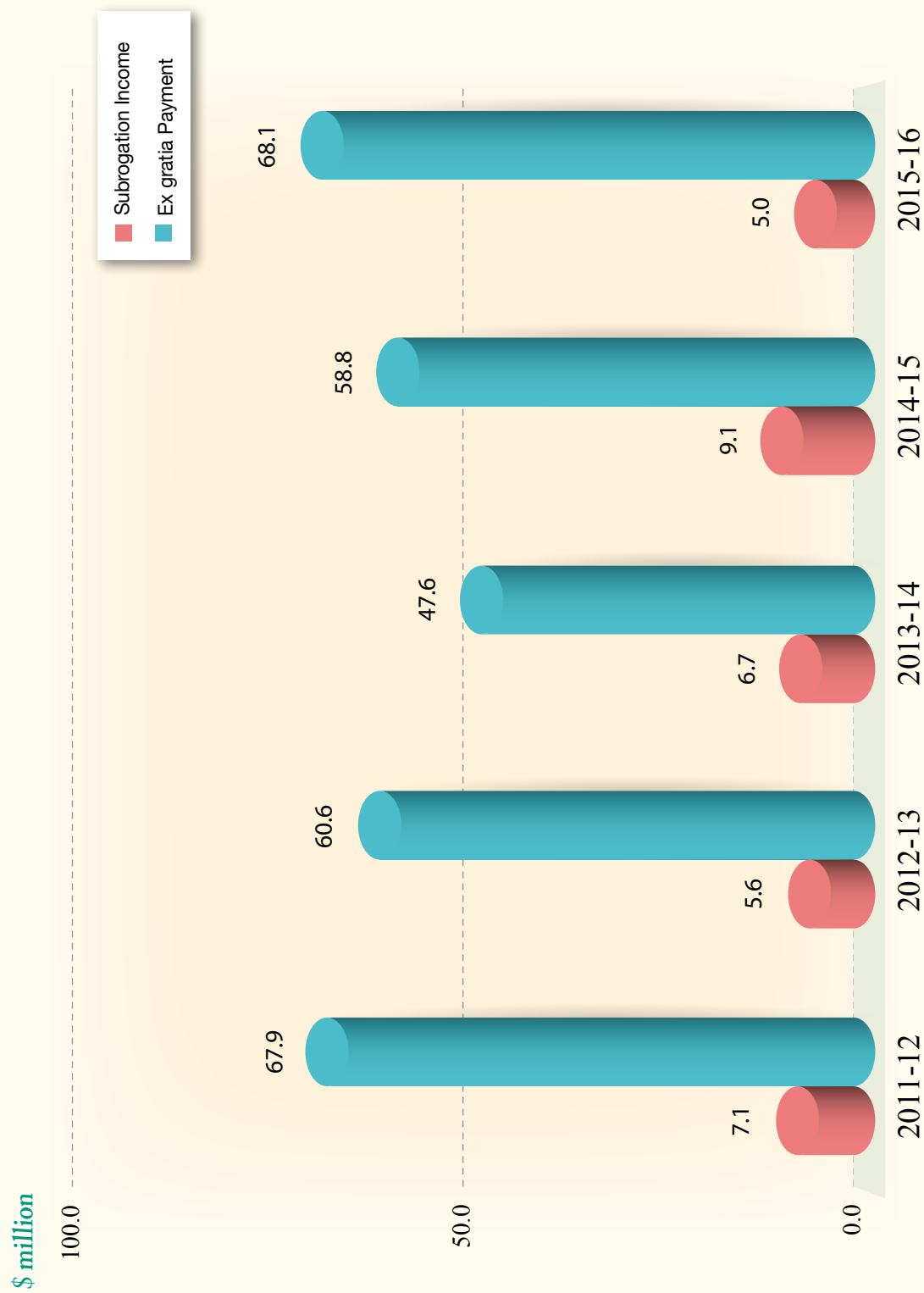


\* Bank deposit interests and money recovered through subrogation

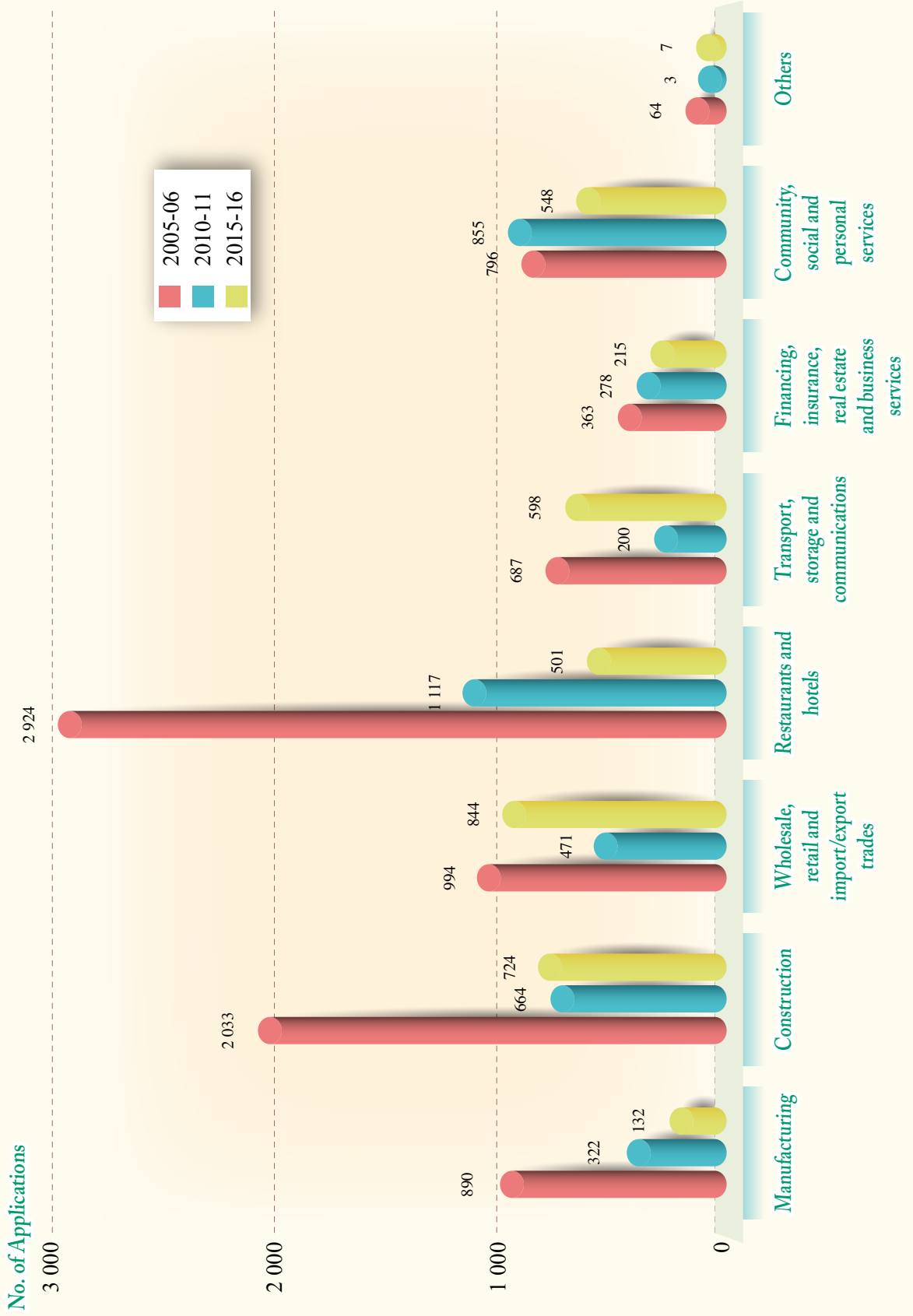


**Figure 6**

Subrogation income and ex gratia payment of the Fund from 2011-12 to 2015-16



Analysis of applications received by economic sector in 2005-06, 2010-11 and 2015-16



Appendix X

Independent Auditors' Report and Audited Financial Statements

PROTECTION OF WAGES ON INSOLVENCY FUND

31 March 2016



Building a better  
working world

## 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 - 16



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## **Independent auditors' report**

### **To members of the 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 16, which comprise the statement of financial position as at 31 March 2016, and the statement of profit or loss and other comprehensive income, 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 information.

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

The Protection of Wages on Insolvency Fund Board (the "Board") is responsible for the preparation of financial statements that give a true and fair view 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, and for such internal control as the Board determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### **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 about 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 of the financial statements that give a true and fair view 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.

**Independent auditors' report** (continued)  
**To members of the 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 financial position of the Fund as at 31 March 2016, 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 compliance with the Protection of Wages on Insolvency Ordinance.



Certified Public Accountants  
Hong Kong  
12 September 2016

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

Year ended 31 March 2016

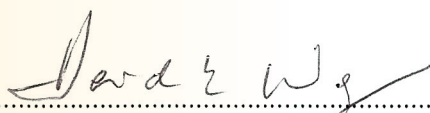
	Notes	2016 HK\$	2015 HK\$
INCOME	3	<u>416,228,722</u>	<u>421,477,651</u>
EXPENDITURE			
Ex gratia payments	4	68,054,912	58,802,894
Supervision fee	5	22,853,517	21,466,503
Provision for potential claims for ex gratia payments		99,280,000	-
Auditors' remuneration		93,000	88,500
Rates and building management charges		317,235	305,768
Insurance		6,407	6,407
Printing and stationery		37,200	36,400
Miscellaneous expenses		<u>649,014</u>	<u>683,089</u>
TOTAL EXPENDITURE		<u>191,291,285</u>	<u>81,389,561</u>
SURPLUS AND TOTAL COMPREHENSIVE INCOME FOR THE YEAR	6	<u><u>224,937,437</u></u>	<u><u>340,088,090</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

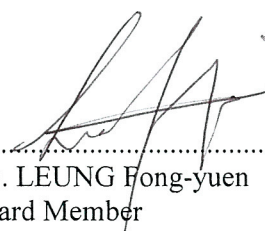
STATEMENT OF FINANCIAL POSITION

31 March 2016

	Notes	2016 HK\$	2015 HK\$
<b>NON-CURRENT ASSET</b>			
Property	9	-	-
<b>CURRENT ASSETS</b>			
Levies receivable		32,004,500	37,350,100
Interest receivables		14,989,976	12,601,007
Sundry deposits		49,000	49,000
Prepayment		80,000	63,333
Time deposits	10	4,357,027,614	4,029,131,161
Cash at banks	10	252,102	368,241
Total current assets		<u>4,404,403,192</u>	<u>4,079,562,842</u>
<b>CURRENT LIABILITIES</b>			
Approved applications payable		3,894,264	4,777,631
Accrued operation expenses		101,980	95,700
Accrued supervision fee	5	23,000,000	21,500,000
Provision for potential claims for ex gratia payments	11	99,280,000	-
Total current liabilities		<u>126,276,244</u>	<u>26,373,331</u>
<b>NET CURRENT ASSETS</b>		<u>4,278,126,948</u>	<u>4,053,189,511</u>
Net assets		<u>4,278,126,948</u>	<u>4,053,189,511</u>
<b>FINANCED BY:</b>			
Accumulated surplus		4,261,588,161	4,036,650,724
General reserve	12	16,538,787	16,538,787
Total accumulated funds and reserves		<u>4,278,126,948</u>	<u>4,053,189,511</u>



Dr. David WONG Yau-kar, BBS, JP  
Chairman



Ms. LEUNG Fong-yuen  
Board Member



PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF CHANGES IN FUNDS AND RESERVES

Year ended 31 March 2016

	Accumulated surplus HK\$	General reserve HK\$	Total accumulated funds and reserves HK\$
At 1 April 2014	3,696,562,634	16,538,787	3,713,101,421
Surplus and total comprehensive income for the year	<u>340,088,090</u>	<u>-</u>	<u>340,088,090</u>
At 31 March 2015 and at 1 April 2015	4,036,650,724	16,538,787	4,053,189,511
Surplus and total comprehensive income for the year	<u>224,937,437</u>	<u>-</u>	<u>224,937,437</u>
At 31 March 2016	<u><u>4,261,588,161</u></u>	<u><u>16,538,787</u></u>	<u><u>4,278,126,948</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF CASH FLOWS

Year ended 31 March 2016

	Notes	2016 HK\$	2015 HK\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Surplus for the year		224,937,437	340,088,090
Adjustment for bank interest income	3	( 55,504,124)	( 59,773,861)
		169,433,313	280,314,229
Decrease/(increase) in levies receivable		5,345,600	( 2,458,300)
Increase in sundry deposits		-	( 7,000)
Increase in a prepayment		( 16,667)	( 2,500)
Increase/(decrease) in approved applications payable		( 883,367)	946,758
Increase in provision for potential claims for ex gratia payments		99,280,000	-
Increase in accrued operation expenses		6,280	2,700
Increase in accrued supervision fee		1,500,000	900,000
Net cash flows generated from operating activities		<u>274,665,159</u>	<u>279,695,887</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Interest received		53,115,155	54,429,337
Decrease/(increase) in time deposits with original maturity over three months		(1,565,735,555)	447,007,941
Net cash flows generated from/(used in) investing activities		<u>(1,512,620,400)</u>	<u>501,437,278</u>
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>			
Cash and cash equivalents at beginning of year		<u>1,694,507,343</u>	<u>913,374,178</u>
CASH AND CASH EQUIVALENTS AT END OF YEAR		<u><u>456,552,102</u></u>	<u><u>1,694,507,343</u></u>
<b>ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS</b>			
Bank balances	10	252,102	368,241
Time deposits with original maturity of three months or less when acquired	10	<u>456,300,000</u>	<u>1,694,139,102</u>
		<u><u>456,552,102</u></u>	<u><u>1,694,507,343</u></u>

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 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 (“HKICPA”), 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 (“HK\$”).

#### 2.2 CHANGES IN ACCOUNTING POLICIES AND DISCLOSURES

Certain revised HKFRSs became effective for the first time during the current financial year but are not applicable to the Fund and, accordingly, they have had no impact on the Fund’s financial statements for the year ended 31 March 2016.

#### 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, 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 2016

#### 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 to its residual value 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 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. Regular way purchases and sales of the financial assets are recognised on the trade date, that is, the date that the Fund commits to purchase or sell the asset.

##### (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 promptly when there is objective evidence that impairment of a loan or a portfolio of loans has occurred. Impairment allowances are assessed either individually for individually significant loans or collectively for loan portfolios 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 2016

#### 2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

##### Financial instruments (continued)

##### (b) Financial liabilities

Financial liabilities of the Fund include approved applications 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 cash at banks, including term deposits, which are not restricted as to use.

##### Operating leases

Leases where substantially all the rewards and risks of ownership of assets remain with the lessor are accounted for as operating leases. Where the Fund is the lessee, rentals payable under operating leases net of any incentives received from the lessor are charged as expenditure on the straight-line basis over the lease terms.

##### Provisions

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.

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

##### Revenue recognition

Revenue is recognised when it is probable that the economic benefits will flow to the Fund and when the revenue can be measured reliably, 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 ex gratia payments

Ex gratia payments are accounted for on an accrual basis for applications approved by 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 of its employees. 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.

#### 3. INCOME

An analysis of income is as follows:

	2016 HK\$	2015 HK\$
Levies	355,685,950	352,647,100
Money recovered by subrogation	5,038,648	9,056,690
Bank interest income	55,504,124	59,773,861
	<u>416,228,722</u>	<u>421,477,651</u>

In accordance with the provisions of Sections 7 and 21 of the Business Registration Ordinance and Section 6 in Part 3 of the Protection of Wages on Insolvency Ordinance, levies of HK\$250 and HK\$750 are respectively imposed on one-year and three-year business registration certificates according to the Business Registration Ordinance (Amendment of Schedule 2) Order 2013.

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 4. EX GRATIA PAYMENTS

In accordance with the provisions of Sections 16(1) and (2) and Section 18(1) in Part 5 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 to severance payment in excess of HK\$50,000, the liability for payment of which arose not more than six months prior to the date of application.

(d) Pay for untaken annual leave and pay for untaken statutory holidays

The total amount of pay for untaken annual leave and/or pay for untaken statutory holidays not exceeding HK\$10,500, which includes (i) pay for any annual leave earned in the applicant's last full leave year but untaken and pro rata annual leave pay for the last leave year where the applicant has at least 3 but less than 12 months' service, payable to the applicant upon termination of employment contract under the Employment Ordinance, and (ii) pay for untaken statutory holidays which fell within 4 months before his last day of service which would have been payable to the applicant had the applicant taken the holidays.

#### 5. SUPERVISION FEE

In accordance with the provisions of Section 14 in Part 4 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.

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2016

6. SURPLUS FOR THE YEAR

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

	2016 HK\$	2015 HK\$
Auditors' remuneration	93,000	88,500
Employee benefit expense:		
Wages and salaries	259,018	209,830
Pension scheme contributions	<u>27,265</u>	<u>20,733</u>
	<u>286,283</u>	<u>230,563</u>
Minimum lease payments under an operating lease	<u>264,356</u>	<u>243,713</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 (2015: Nil).

8. INCOME TAX

The Fund is exempt from tax under Section 88 of the Inland Revenue Ordinance.

9. PROPERTY

Land and  
building  
HK\$

**31 March 2016**

At 1 April 2014, 31 March 2015, 1 April 2015 and 31 March 2016:

Cost	27,474,677
Accumulated depreciation	<u>(27,474,677)</u>
Net carrying amount	<u><u>-</u></u>

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



## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 10. CASH AT BANKS AND TIME DEPOSITS

	2016 HK\$	2015 HK\$
Bank balances	252,102	368,241
Time deposits with original maturity of:		
3 months or less	456,300,000	1,694,139,102
More than 3 months to 12 months, inclusive	<u>3,900,727,614</u>	<u>2,334,992,059</u>
	<u>4,357,279,716</u>	<u>4,029,499,402</u>

At the end of the reporting period, the cash at banks and time deposits of the Fund denominated in Renminbi (“RMB”) amounted to HK\$387,927,614 (2015: HK\$374,961,989). The RMB is not freely convertible into other currencies. However, under Mainland China’s Foreign Exchange Control Regulations and Administration of Settlement, Sales and Payment of Foreign Exchange Regulations, the Fund is permitted to exchange RMB for other currencies through banks authorised to conduct foreign exchange business.

#### 11. PROVISION

	HK\$
As at 1 April 2015	-
Additional provision	<u>99,280,000</u>
As at 31 March 2016	<u>99,280,000</u>

A provision of HK\$99,280,000 (2015: Nil) is recognised for potential claims from past applicants for the shortfalls in ex gratia payments on severance payments previously made in light of the method of calculation ruled by the Court of Final Appeal (the “CFA”) on 17 May 2016. Further details are included in Note 17 of this report. The provision for such shortfalls has been estimated based on the method of calculation of ex gratia payments on severance payments ruled by the CFA that the relevant past applicants may rely on in claiming the shortfalls. The method of estimation is reviewed on an ongoing basis and is revised where appropriate.

#### 12. GENERAL RESERVE

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

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 13. 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 2016, the Fund had total future minimum lease payments under the non-cancellable operating lease falling due as follows:

	2016 HK\$	2015 HK\$
Within one year	132,000	264,000
In the second to fifth years, inclusive	<u>-</u>	<u>132,000</u>
	<u>132,000</u>	<u>396,000</u>

#### 14. CONTINGENT LIABILITIES

At 31 March 2016, contingent liabilities in respect of applications received but not yet approved and provided for in the financial statements amounted to HK\$129,015,202 (2015: HK\$72,662,503).

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.

#### 15. FAIR VALUE

At the end of the reporting period, the carrying amounts of the Fund's financial assets and liabilities approximated to their fair values.

The fair values of the financial assets and liabilities are included at the amounts at which the instruments could be exchanged in current transactions between willing parties, other than in forced or liquidation sales.

The fair values of levies receivable, interest receivables, time deposits, cash at banks, approved applications payable, accrued operation expenses and accrued supervision fee approximate to their carrying amounts largely due to the short term maturities of these instruments.

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 16. 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 applications 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 and foreign currency risk.

##### *Credit risk*

The Fund's receivable balances are monitored on an ongoing basis and the Fund's exposure to bad debts is not significant. The Fund's maximum exposure on credit risk arising from the default of the counterparties equal to the aggregate carrying amount 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.

##### *Foreign currency risk*

The risk that the value of a foreign currency denominated financial instrument fluctuates because of a change in the corresponding foreign exchange rate. The Fund does not have any policy for hedging or entering into any forward currency contracts to eliminate the currency exposure on any individual transaction.

The following table demonstrates the sensitivity at the end of the reporting period to a reasonably possible change in the Renminbi ("RMB") exchange rate, with all other variables held constant, of the Fund's surplus (due to changes in the fair value of monetary assets and liabilities).

	Change in the rate %	Increase/ (decrease) in surplus HK\$
<u>2016</u>		
If HK\$ weakens against RMB	1	3,879,276
If HK\$ strengthens against RMB	( 1)	( 3,879,276)
<u>2015</u>		
If HK\$ weakens against RMB	1	3,749,620
If HK\$ strengthens against RMB	( 1)	( 3,749,620)

## PROTECTION OF WAGES ON INSOLVENCY FUND

### NOTES TO FINANCIAL STATEMENTS

31 March 2016

#### 16. FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES (continued)

##### *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 2016 and 31 March 2015.

#### 17. EVENTS AFTER THE REPORTING PERIOD

On 17 May 2016, the CFA passed a judgment on an appeal against the decision of the Board and the Commissioner for Labour. The case was related to the determination of the correct method for the calculation of ex gratia payments on severance payments payable under the Protection of Wages on Insolvency Ordinance. In accordance with the method of calculation ruled by the CFA, the corresponding appellant was entitled to an ex gratia payment of HK\$25,377.50 on account of severance payment.

On 25 May 2016, the Fund paid the ex gratia payment of HK\$25,377.50 on account of severance payment to the appellant in accordance with the judgment.

The Board anticipates potential claims from past applicants for the shortfalls in ex gratia payments on severance payments previously made in light of the method of calculation ruled by the CFA. The Board will discharge its statutory duty and make good the shortfalls in payments for relevant valid claims. A corresponding provision of HK\$99,280,000 has been estimated and recognised for the potential claims.

#### 18. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 12 September 2016.