

**ANNUAL REPORT OF
THE PROTECTION OF WAGES ON
INSOLVENCY FUND BOARD
2008-09**

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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 2008 to 31 March 2009.

This year has proved to be a busy year for the Board. The financial tsunami that erupted in September 2008 had left few economies around the world unaffected. The economy of Hong Kong has experienced a severe setback, resulting in a series of business closures, insolvencies, bankruptcies and redundancies. In the wake of the global financial crisis and depressed economic sentiments, the Fund received a total of 7 511 applications in 2008-09, an increase of 67% over the figure of 4 506 in 2007-08. Between October 2008 and March 2009, the Fund received 4 550 applications, a significant increase of 98% over the figure of 2 299 for the same period in the preceding year. Of the applications received in 2008-09, 6 071 applications for ex gratia payment were approved, leading to a total payout of \$129.5 million.

In safeguarding employees' rights to their statutory entitlements and alleviating the adverse impact of the financial tsunami, the Wage Security Division of the Labour Department (LD) has effectively expedited the processing of PWIF applications and exercised as much flexibility as permissible under the law to facilitate employees in applying for ex gratia payment from the Fund promptly. As a result, the average processing time was reduced to 2.5 weeks from 2.7 weeks of the previous year. The hardship of the employees was thus further relieved.

Whilst recognising the need for prompt assistance to the affected employees, it is gratifying to note that the inter-departmental Task Force, comprising representatives of the LD, the Commercial Crime Bureau (CCB) of the Hong Kong Police, the Official Receiver's Office (ORO) and the Legal Aid Department (LAD), continued with its best endeavours to guard against abuse by unscrupulous employers. Targeted inspections, close vigilance, early intervention, stronger intelligence network and underpinning enforcement action have effectively checked potential abuse of the Fund. I am sure the LD's proactive and pragmatic efforts will continue to yield significant results.

During the year, the Board deliberated on a proposal to expand the scope of the Fund to cover untaken annual leave pay under the Employment Ordinance (EO). The Board unanimously agreed that the scope of the Fund should be extended to cover annual leave pay under the EO for annual leave accumulated and not yet taken by employees. Given its sound financial position at present, the Fund should be able to meet the additional expenditure arising from the implementation of the proposed improvement. However, the Manpower Panel of the Legislative Council suggested to further expand the scope of the Fund. As such, the Board will have to revisit the issue and examine the possible cost implications. The Board also agreed on a mechanism for triggering its future levy reviews this year.

On the financial side, I am delighted to report that the Fund registered a surplus of \$317.6 million for the 2008-09 financial year. This was the fifth consecutive year that the Fund had recorded a surplus since the 2004-05 financial year. The accumulative surplus of the Fund again hit a record level of \$1,546.1 million by the end of March 2009. We would continue to faithfully and responsibly manage the Fund with a well-balanced and prudent approach.

I wish to take this opportunity to express my cordial thanks to all the members of the Board for their solid contributions and strong commitment 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 the LD, the LAD, the ORO, the CCB of the Hong Kong Police Force and the Inland Revenue Department.

Hong Kong's social stability and economic success have been firmly underpinned by our generally peaceful labour relations scene. The Fund will continue to work closely with the Government and other concerned parties in meeting the challenges ahead.

Clement CHEN Cheng-jen, BBS, JP
Chairman
Protection of Wages on Insolvency Fund Board

September 2009

MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2008-09

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

Representing government departments

Assistant Commissioner 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

Group Photo of the Protection of Wages on Insolvency Fund Board 2008-09



Rear row from left:

Miss Mabel LI Po-yi
Secretary

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

Dr. David WONG Yau-kar
Representing employers

Ms. LAM Suk-fun
Representing employees

Mr. Chris CHONG Yan-tung
Assistant Principal Legal Aid Counsel,
Legal Aid Department

Mr. Byron NG Kwok-keung, JP
Assistant Commissioner,
Labour Department

Front row from left:

Mr. Patrick CHAN Kwok-wai
Representing employers

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

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

Mr. CHEUNG Pak-chi, MH
Representing employees

Mr. CHAN Wai-lun, MH
Representing employees

INTRODUCTION

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

This report covers the activities of the Protection of Wages on Insolvency Fund Board (the Board) and the operation of the Fund for the financial year ended 31 March 2009.

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 up to \$50,000 plus 50% of any entitlement, under the Employment Ordinance, in excess of \$50,000.

Prerequisites for making ex gratia payment from the Fund

Section 16(1) of the Ordinance requires the presentation of a winding-up or bankruptcy petition as a pre-condition for payment from the Fund. 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 in the course of winding-up or bankruptcy proceedings any payment made to the applicant.

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 2008-09, 7 511 applications involving claims for ex gratia payment of \$477.4 million were received from employees. A total of 879 suspected insolvency cases were recorded. Detailed breakdown of the applications is at **Appendix I**.

Of the 879 suspected insolvency cases, 810 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 10 each involved 100 employees or more.

During the year, the catering trade recorded the largest number of applications, with 1 633 applications involving a total claim of \$24.1 million. This was followed by the retail industry with 1 106 applications and a total claim of \$84.9 million, and the import/export trade with 730 applications and a total claim of \$64.8 million. These three trades accounted for 46.2% of all applications and 36.4% of the total amount claimed.

Out of the 7 511 applicants, 6 785 applied for ex gratia payment on arrears of wages, 5 582 applied for payment on wages in lieu of notice, and 2 591 applied for payment on severance payment. Breakdowns of these applications are at **Appendices II, III and IV**.

Applications processed

A total of 6 071 applications were approved during the year, resulting in payment amounting to \$129.5 million. Out of these, a total payment of \$16.1 million was made to 885 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 69.3% of applicants on arrears of wages, 98.2% of applicants on wages in lieu of notice, and 55.6% of applicants on severance payment.

The Commissioner for Labour rejected 87 applications involving claims totalling \$13.0 million, mostly for reasons such as the applicants' status as registered company directors, claims with insufficient evidence or claims without legal backing. At the same time, 757 applications involving claims amounting to \$35.2 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, setting up of a mechanism for triggering future review of the levy, and deliberation of a recommendation to expand the scope of the Fund to cover untaken annual leave pay.

FINANCIAL POSITION OF THE PROTECTION OF WAGES ON INSOLVENCY FUND

During the year, the Fund received levy income of \$439.4 million and paid out a total of \$129.5 million in ex gratia payment. The Fund registered a surplus of \$317.6 million, as compared with a surplus of \$456.5 million in the previous financial year. As at 31 March 2009, the Fund's accumulated surplus stood at \$1,546.1 million.

A copy of the independent auditors' report and the audited financial statements for the year ended 31 March 2009 is at **Appendix IX**.

ACTIVITIES HIGHLIGHT

Publicity and promotion for the Fund

To enable the public to better understand the Fund and its operation, Mr. Clement CHEN Cheng-jen, BBS, JP, Board Chairman, met the media in October 2008 and January 2009 to highlight the performance of the Fund. Both interviews were reported in good coverage in various television and radio channels and newspapers.



Board Chairman Mr. Clement CHEN Cheng-jen, BBS, JP publicised the Fund through media sessions.

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.

Customer Opinion Survey

The Board and the Labour Department jointly conducted a biennial customer opinion survey in the period from November 2008 to February 2009. Questionnaires were distributed to 2 171 applicants, of whom 295 subsequently completed and returned their responses. Our customers were generally satisfied with the service of the Labour Department. The survey findings were presented to the Board at its meeting on 4 June 2009.

Achievements of the inter-departmental Task Force

The inter-departmental Task Force set up in November 2002 continued to play an active role in guarding against abuse of the Fund. The Labour Department, the 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 2008 to March 2009, in the concluded prosecution cases involving applications for the Fund, we recorded 166 convicted summonses. On the other hand, the court disqualified 21 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. Members of the Task Force briefed Members of the Tripartite Committee of different industries twice on the various measures to combat abuses of the Fund and avenues for reporting malpractices.



The Senior Inspector of the Commercial Crime Bureau briefed the Members of the Tripartite Committee on Catering Industry on the handling of suspected crimes in insolvency cases referred by the Labour Department.

Appendices

IV. Breakdown of applications by industry

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants		Amount claimed (including wages, wages in lieu of notice and severance payment)
<i>Division 3</i>	<i>Manufacturing</i>			
Sub-group				
311-312	Food	10	(8)	\$572,642.87
313	Beverage industries	1	(1)	\$1,380.00
320-322	Wearing apparel (excluding footwear)	179	(17)	\$12,091,437.90
323	Leather and leather products (excluding footwear and wearing apparel)	3	(1)	\$131,733.33
325-329	Textiles industries	88	(7)	\$8,925,854.02
332	Furniture and fixtures (excluding primarily of metal)	18	(3)	\$4,706,280.57
341	Paper and paper products	5	(2)	\$782,510.00
342	Printing, publishing and allied industries	95	(11)	\$7,669,091.50
355	Rubber products	39	(2)	\$2,276,846.74
356	Plastic products	58	(8)	\$8,307,574.38
371-372	Basic metal	10	(1)	\$2,484,193.57
380-381	Fabricated metal products (excluding machinery and equipment)	8	(3)	\$1,419,760.31
383	Radio, television & communications equipment and apparatus	16	(1)	\$965,343.49
384	Electronic parts and components	86	(5)	\$9,412,836.88
385	Electrical appliances & houseware and electronic toys	50	(3)	\$5,625,097.72
386-387	Machinery, equipment, apparatus, parts and components, not elsewhere classified	59	(3)	\$9,378,562.14
389	Professional & scientific, measuring & controlling equipment, not elsewhere classified, and photographic & optical goods	31	(3)	\$2,670,040.61
390-391	Manufacturing industries, not elsewhere classified	151	(26)	\$20,287,977.45
<i>Division 4</i>	<i>Electricity, Gas and Water</i>	2	(1)	\$554,850.00
<i>Division 5</i>	<i>Construction</i>	722	(189)	\$18,338,149.40
<i>Division 6</i>	<i>Wholesale, Retail and Import/Export Trades, Restaurants and Hotels</i>			
Sub-group				
611-612	Wholesale	125	(16)	\$10,621,445.35
621	Retail	1 106	(50)	\$84,919,057.09
631-632	Import/Export	730	(147)	\$64,767,404.14
641	Restaurants	1 633	(112)	\$24,052,835.53

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 7</i>	<i>Transport, Storage and Communications</i>			
Sub-group				
712	Land freight transport	368	(63)	\$25,331,785.00
713	Supporting services to land transport	16	(8)	\$1,136,224.65
714	Ocean and coastal water transport	53	(3)	\$5,404,414.74
715	Inland water transport	2	(1)	\$501,906.05
716	Supporting services to water transport	1	(1)	\$50,000.00
717	Air transport	692	(3)	\$79,341,885.28
718	Services incidental to transport	5	(2)	\$183,953.89
732	Telecommunications	8	(5)	\$107,063.15
<i>Division 8</i>	<i>Financing, Insurance, Real Estate and Business Services</i>			
Sub-group				
811	Banking	3	(1)	\$571,646.37
812	Finance and investment companies	57	(9)	\$16,866,925.94
819	Financial institutions, not elsewhere classified	1	(1)	\$82,161.29
821	Insurance	1	(1)	\$121,195.92
831	Real estate	296	(6)	\$3,124,128.15
832	Rental of machinery and equipment	4	(1)	\$227,571.43
833	Business services (excluding rental of machinery and equipment)	424	(55)	\$30,152,200.75
<i>Division 9</i>	<i>Community, Social and Personal Services</i>			
Sub-group				
921	Sanitary and similar services	11	(7)	\$262,753.25
931	Education services	79	(5)	\$3,247,590.20
933	Medical, dental, other health and veterinary services	76	(8)	\$4,557,306.64
934	Welfare institutions	1	(1)	\$60,025.61
940-941	Motion pictures and other entertainment services	16	(6)	\$1,534,163.57
949	Miscellaneous amusement & recreational services	33	(7)	\$868,700.67
952	Laundry, dry cleaning and garment services	5	(4)	\$74,960.80
959	Miscellaneous personal services	134	(61)	\$2,636,974.92
Total :		7 511	(879)	\$477,408,443.26

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 2008-09

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	726	9.67
\$8,000* or less	2 734	36.40
\$8,001 ~ \$18,000	2 026	26.97
\$18,001 ~ \$24,000	516	6.87
\$24,001 ~ \$27,000	229	3.05
\$27,001 ~ \$30,000	160	2.13
\$30,001 ~ \$33,000	142	1.89
\$33,001 ~ \$36,000 [#]	101	1.34
\$36,001 ~ \$39,000	82	1.09
More than \$39,000	795	10.58
Total :	<u>7 511</u>	<u>100.00</u>

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	1 091	14.53
Half month or less	1 602	21.33
More than 1/2 month to 1 month	2 415	32.15
More than 1 month to 2 months	1 500	19.97
More than 2 months to 3 months	437	5.82
More than 3 months to 4 months	176	2.34
More than 4 months	290	3.86
Total :	<u>7 511</u>	<u>100.00</u>

* 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.

[#] 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 2008-09**

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	1 929	25.68
\$2,000* or less	1 111	14.79
\$2,001 ~ \$6,000	850	11.32
\$6,001 ~ \$10,000	995	13.25
\$10,001 ~ \$15,000	969	12.90
\$15,001 ~ \$22,500 [#]	673	8.96
\$22,501 ~ \$25,000	201	2.68
More than \$25,000	783	10.42
Total :	<u>7 511</u>	<u>100.00</u>

B. By notice period

Notice period	No. of applicants	Percentage
No entitlement/Not claimed	1 929	25.68
1 day ~ 7 days	1 703	22.67
8 days ~ 14 days	73	0.97
15 days	9	0.12
16 days ~ less than 1 month	106	1.41
1 month ^{*#}	3 412	45.43
More than 1 month	279	3.71
Total :	<u>7 511</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.

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

Appendix IV

**Breakdown of applications for
ex gratia payment on severance payment[#] received in 2008-09**

A. By amount

Amount	No. of applicants	Percentage
No entitlement/Not claimed	4 920	65.50
\$8,000* or less	121	1.61
\$8,001 ~ \$36,000	950	12.65
\$36,001 ~ \$50,000	274	3.65
\$50,001 ~ \$80,000	429	5.71
\$80,001 ~ \$110,000	249	3.32
\$110,001 ~ \$140,000	192	2.56
\$140,001 ~ \$170,000	113	1.50
\$170,001 ~ \$200,000	85	1.13
\$200,001 ~ \$250,000	72	0.96
\$250,001 ~ \$300,000	35	0.47
\$300,001 ~ \$350,000	27	0.36
\$350,001 ~ \$370,000	5	0.07
\$370,001 ~ \$390,000	27	0.36
More than \$390,000	12	0.16
Total :	7 511	100.00

B. By length of service

Length of service	No. of applicants	Percentage
Not claimed or less than 2 years' service	4 971	66.18
2 ~ 4.99 years	1 035	13.78
5 ~ 5.99 years	169	2.25
6 ~ 6.99 years	141	1.88
7 ~ 7.99 years	141	1.88
8 ~ 8.99 years	134	1.78
9 ~ 9.99 years	79	1.05
10 ~ 14.99 years	473	6.30
15 ~ 19.99 years	221	2.94
20 ~ 24.99 years	78	1.04
25 ~ 29.99 years	40	0.53
30 ~ 34.99 years	17	0.23
35 ~ 38.99 years	6	0.08
39 ~ 40.99 years	1	0.01
41 ~ 42.99 years	1	0.01
43 years' service and over	4	0.05
Total :	7 511	100.00

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

* Preferential limit under the Companies Ordinance and the Bankruptcy Ordinance, i.e. severance payment not exceeding \$8,000 should be paid in priority to 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 2008-09

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	990	16.31
\$4,000 or less	1 102	18.15
\$4,001 ~ \$8,000	1 359	22.39
\$8,001 ~ \$10,000	437	7.20
\$10,001 ~ \$12,000	357	5.88
\$12,001 ~ \$14,000	265	4.37
\$14,001 ~ \$16,000	266	4.38
\$16,001 ~ \$18,000	178	2.93
\$18,001 ~ \$28,000	491	8.09
\$28,001 ~ \$36,000 [#]	626	10.31
Total :	6 071	100.00

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

Amount	No. of applicants	Percentage
Not claimed/Not approved	1 823	30.03
\$2,000 or less	1 098	18.09
\$2,001 ~ \$3,000	337	5.55
\$3,001 ~ \$4,000	232	3.82
\$4,001 ~ \$5,000	98	1.61
\$5,001 ~ \$6,000	113	1.86
\$6,001 ~ \$10,000	642	10.57
\$10,001 ~ \$22,500 [†]	1 728	28.46
Total :	6 071	100.00

C. Analysis of payment approved for severance payment

Amount	No. of applicants	Percentage
Not claimed/Not approved	4 515	74.37
\$8,000 or less	652	10.74
\$8,001 ~ \$22,000	482	7.94
\$22,001 ~ \$36,000	200	3.29
\$36,001 ~ \$50,000	88	1.45
\$50,001 ~ \$80,000	83	1.37
\$80,001 ~ \$110,000	25	0.41
\$110,001 ~ \$140,000	18	0.30
\$140,001 ~ \$170,000	8	0.13
\$170,001 ~ \$200,000	0	0.00
\$200,001 ~ \$210,000	0	0.00
\$210,001 ~ \$220,000*	0	0.00
Total :	6 071	100.00

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

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

* The maximum amount of ex gratia payment out of the Fund on severance payment.

Appendix VI

**Analysis of approved ex gratia payment
as percentage of applicants' claimed amount in 2008-09**

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

Approved payment as percentage of applicants' claimed amount	Percentage of applicants
100%	69.25
90% or above	72.22
80% or above	78.24
70% or above	81.02
60% or above	84.20
50% or above	87.15
40% or above	89.97
30% or above	92.32
20% or above	94.37
10% or above	96.16
5% or above	99.90

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

Approved payment as percentage of applicants' claimed amount	Percentage of applicants
100%	98.16
90% or above	98.58
80% or above	98.95
70% or above	99.16
60% or above	99.47
50% or above	99.56
40% or above	99.60
30% or above	99.74
20% or above	99.88
10% or above	100.00

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

Approved payment as percentage of applicants' claimed amount	Percentage of applicants
100%	55.60
90% or above	59.04
80% or above	63.65
70% or above	67.10
60% or above	71.28
50% or above	75.22

Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2004-05 to 2008-09

Figure 1

Number of applications received by the Fund from 2004-05 to 2008-09

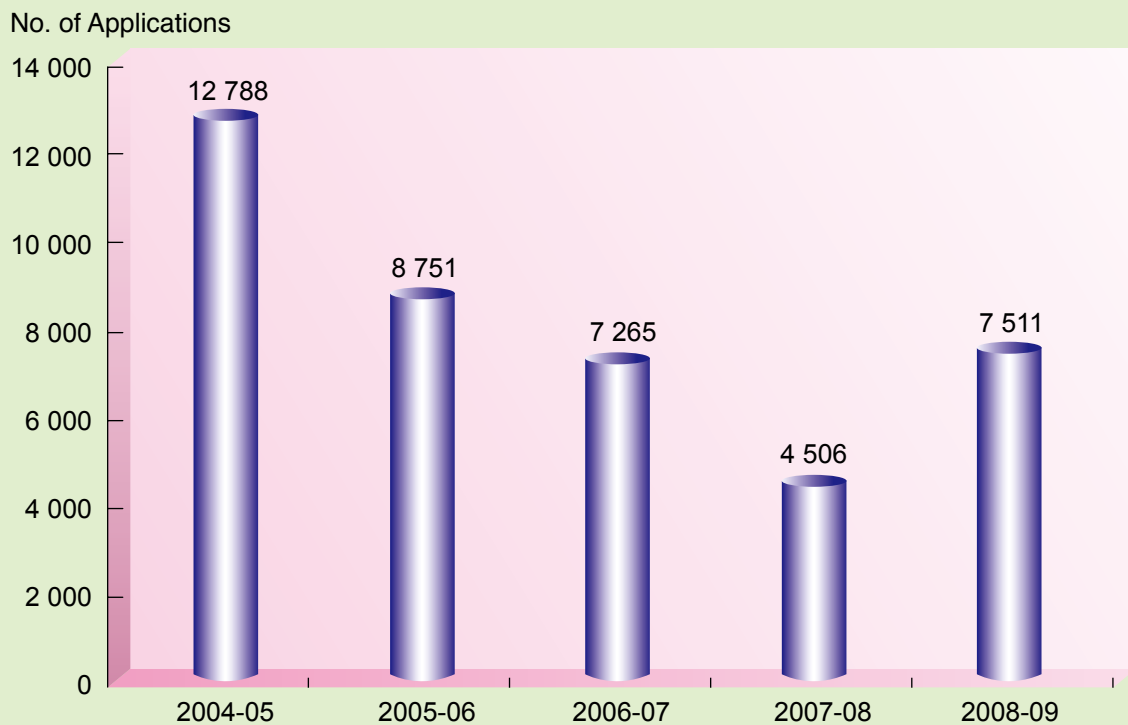


Figure 2

First three industries with the largest number of applications received from 2004-05 to 2008-09

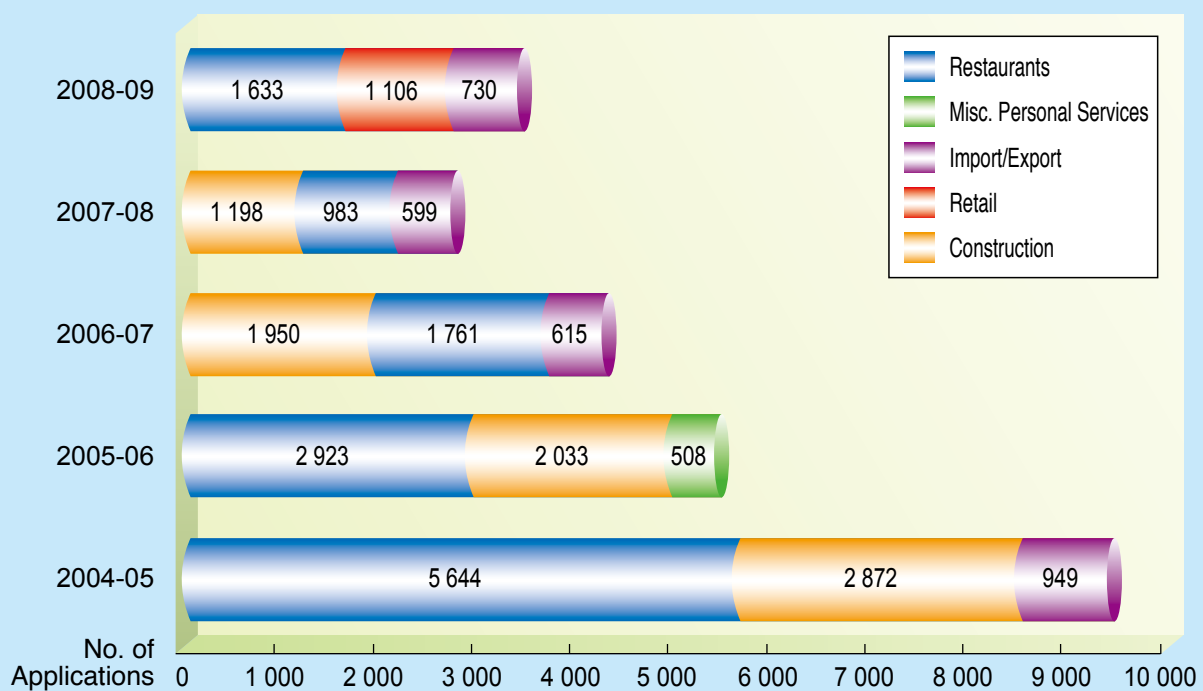


Figure 3
Number of applications and amount of ex gratia payment approved from 2004-05 to 2008-09

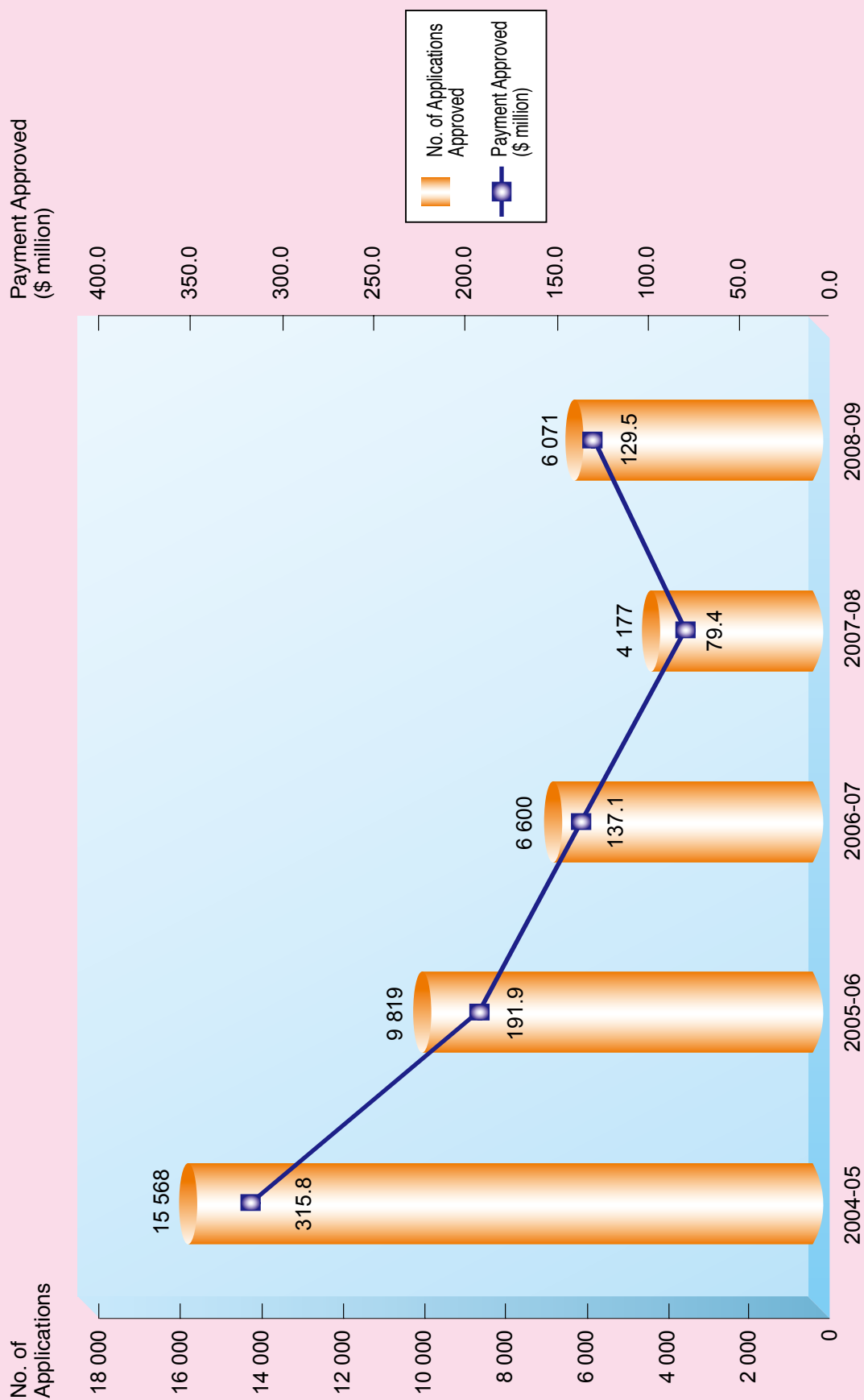


Figure 4

Total income and expenditure of the Fund from 2004-05 to 2008-09

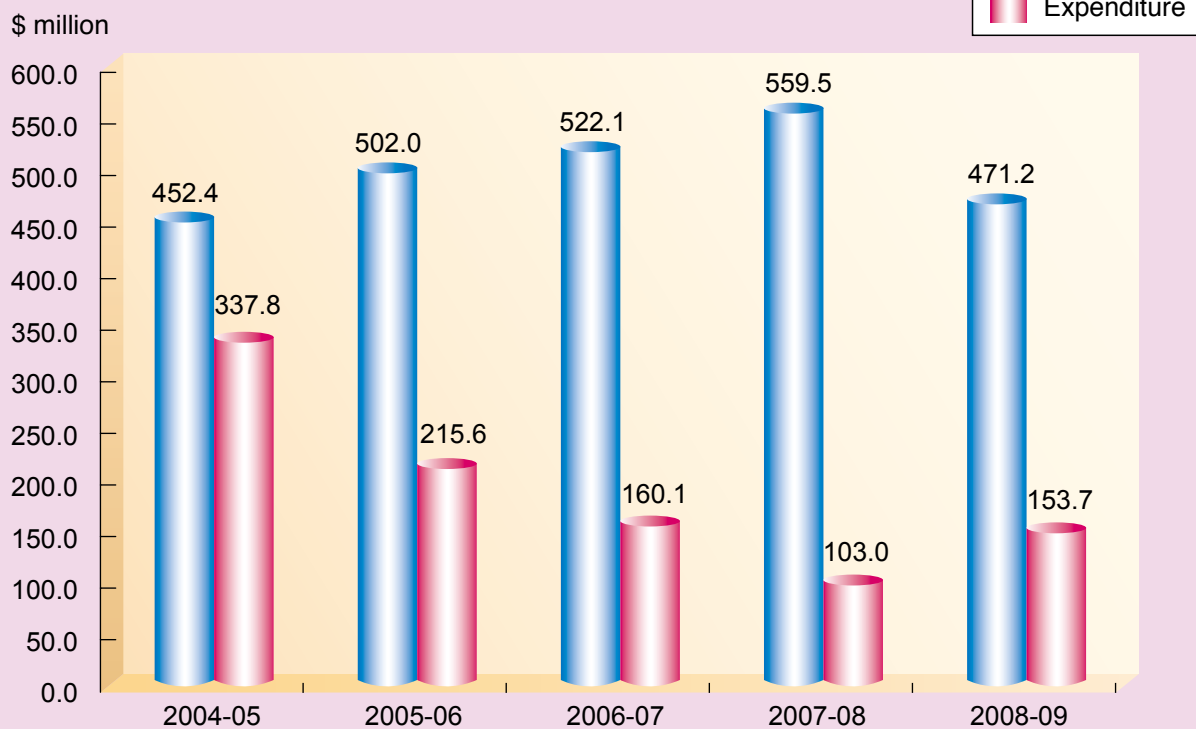


Figure 5

Breakdown of income and expenditure of the Fund from 2004-05 to 2008-09

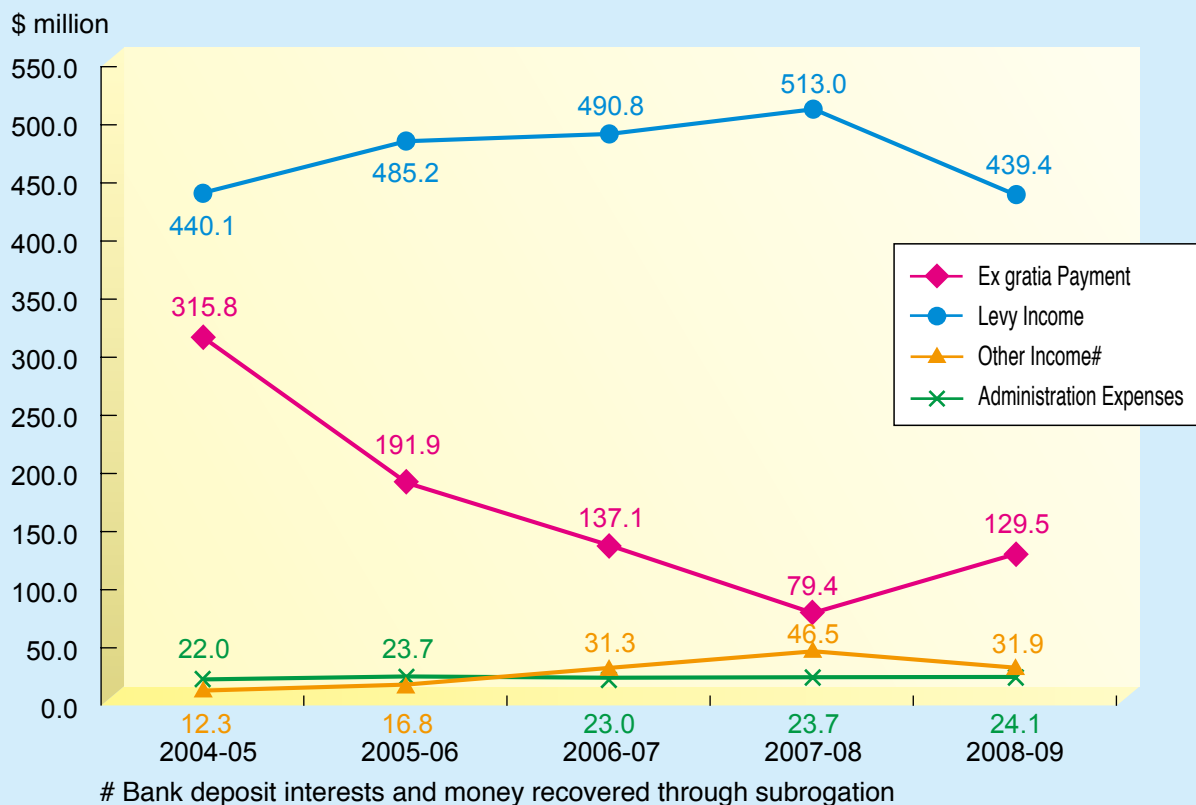
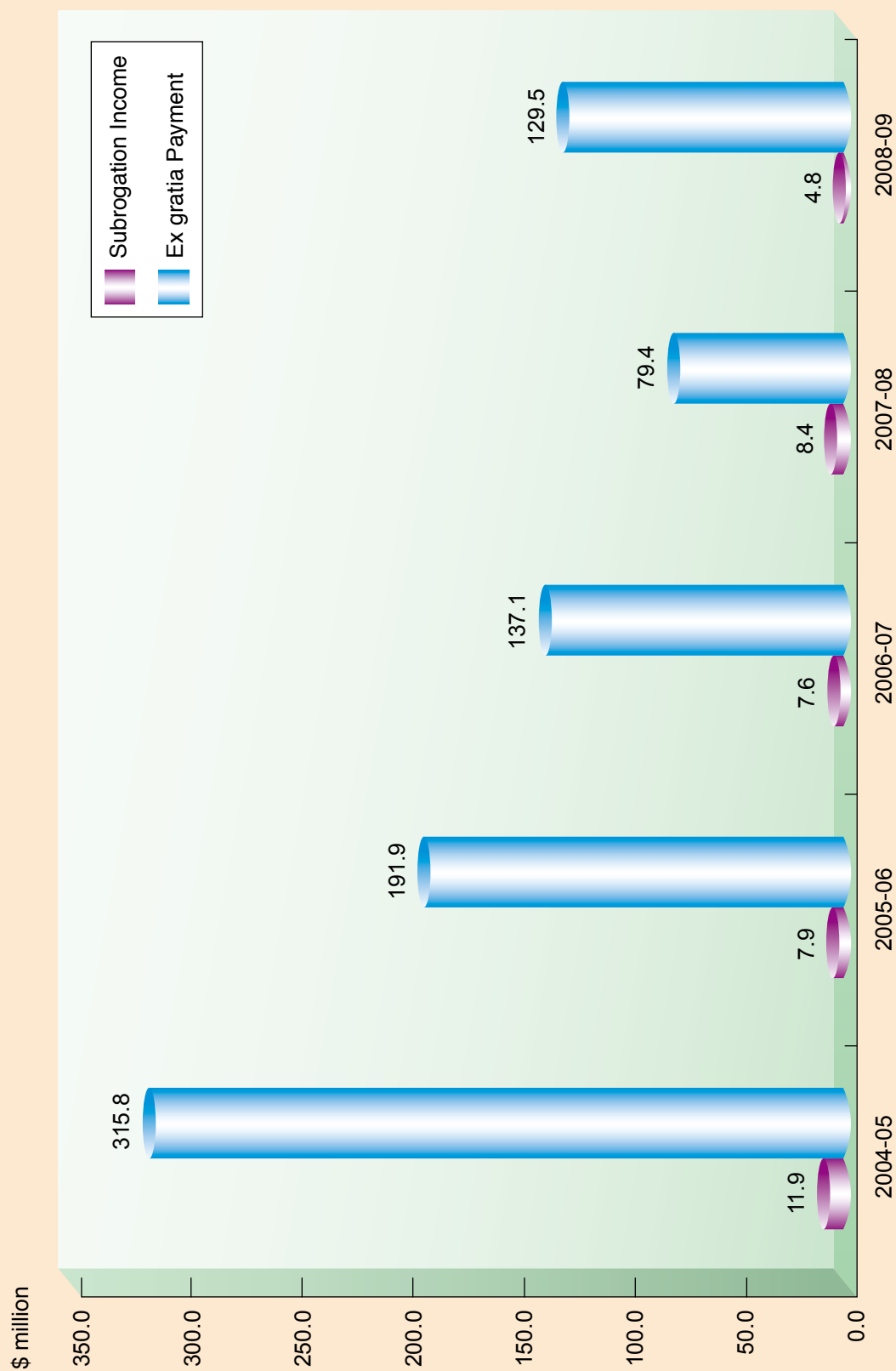
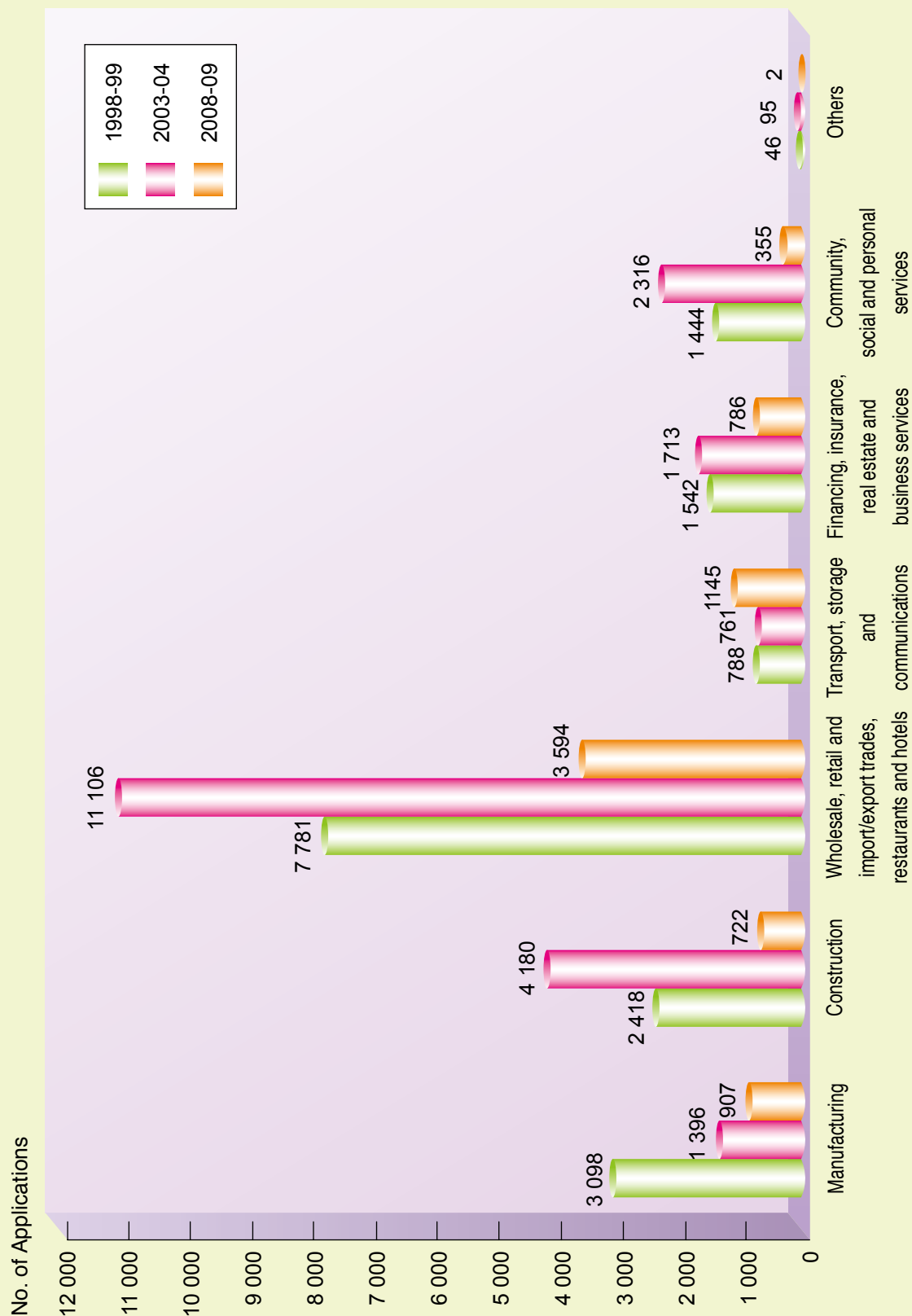


Figure 6
Subrogation income and ex gratia payment of the Fund from 2004-05 to 2008-09



Analysis of applications received by economic sector in 1998-99, 2003-04 and 2008-09



**Independent Auditors' Report and Audited Financial Statements
for the year ended 31 March 2009**



Independent Auditors' Report and Audited Financial
Statements

PROTECTION OF WAGES ON INSOLVENCY FUND

31 March 2009

Ernst & Young

PROTECTION OF WAGES ON INSOLVENCY FUND

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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 12 which comprise the statement of assets and liabilities as at 31 March 2009, and the statement of income and expenditure, the statement of changes in fund and reserves and the cash flow statement 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.

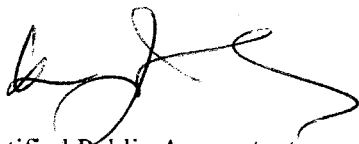


INDEPENDENT AUDITORS' REPORT (continued)

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 2009 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.



Certified Public Accountants
Hong Kong
15 September 2009

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF INCOME AND EXPENDITURE

Year ended 31 March 2009

	Notes	2009 HK\$	2008 HK\$
INCOME	3	<u>471,241,020</u>	<u>559,469,136</u>
EXPENDITURE			
Claims	4	129,549,852	79,365,956
Supervision fee	7	17,725,723	17,089,046
Auditors' remuneration		66,000	61,900
Rates and building management charges		266,796	311,332
Insurance		6,313	6,313
Printing and stationery		54,033	45,935
Depreciation		5,494,935	5,494,935
Miscellaneous expenses		<u>520,153</u>	<u>641,274</u>
TOTAL EXPENDITURE		<u>153,683,805</u>	<u>103,016,691</u>
Surplus for the year		<u><u>317,557,215</u></u>	<u><u>456,452,445</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF ASSETS AND LIABILITIES

31 March 2009

	Notes	2009 HK\$	2008 HK\$
NON-CURRENT ASSET			
Property	8	5,494,937	10,989,872
Total non-current asset		<u>5,494,937</u>	<u>10,989,872</u>
CURRENT ASSETS			
Levy receivable		42,810,100	40,400,850
Interest receivable		1,359,449	3,471,033
Sundry deposits		35,000	38,800
Sundry debtors		174,393	102,316
Cash at banks	9	<u>1,518,224,712</u>	<u>1,195,226,742</u>
Total current assets		<u>1,562,603,654</u>	<u>1,239,239,741</u>
CURRENT LIABILITIES			
Approved claims payable		4,104,681	4,796,958
Accrued operation expenses		69,510	65,470
Accrued supervision fee	7	<u>17,800,000</u>	<u>16,800,000</u>
Total current liabilities		<u>21,974,191</u>	<u>21,662,428</u>
NET CURRENT ASSETS		<u>1,540,629,463</u>	<u>1,217,577,313</u>
Net assets		<u>1,546,124,400</u>	<u>1,228,567,185</u>
FINANCED BY			
Accumulated surplus		1,529,585,613	1,212,028,398
General reserve	10	<u>16,538,787</u>	<u>16,538,787</u>
Total accumulated surplus and reserves		<u>1,546,124,400</u>	<u>1,228,567,185</u>



Chairman



Board Member

PROTECTION OF WAGES ON INSOLVENCY FUND

STATEMENT OF CHANGES IN FUND AND RESERVES

Year ended 31 March 2009

	Accumulated surplus HK\$	General reserve HK\$	Total HK\$
At 1 April 2007	755,575,953	16,538,787	772,114,740
Surplus for the year	<u>456,452,445</u>	<u>-</u>	<u>456,452,445</u>
At 31 March 2008 and 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	<u><u>1,529,585,613</u></u>	<u><u>16,538,787</u></u>	<u><u>1,546,124,400</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

CASH FLOW STATEMENT

Year ended 31 March 2009

	Notes	2009 HK\$	2008 HK\$
CASH FLOWS FROM OPERATING ACTIVITIES			
Surplus for the year		317,557,215	456,452,445
Adjustments for:			
Interest income	3	(27,083,660)	(38,065,565)
Depreciation	8	5,494,935	5,494,935
Gain on disposal of equity security		-	(12,963)
		<u>295,968,490</u>	<u>423,868,852</u>
(Increase)/ decrease in levy receivable		(2,409,250)	11,616,550
Decrease in sundry deposits		3,800	-
Increase in sundry debtors		(72,077)	(15,288)
Decrease in approved claims payable		(692,277)	(2,643,293)
Increase/(decrease) in accrued operation expenses		4,040	(668)
Increase in accrued supervision fee		1,000,000	600,000
Proceeds from disposal of equity security		<u>-</u>	<u>158,483</u>
Cash generated from operating activities		<u>293,802,726</u>	<u>433,584,636</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Interest received		29,195,244	38,419,019
(Increase)/decrease in fixed deposits with maturity over three months		(607,614,351)	6,021,293
Net cash (outflow)/inflow from investing activities		<u>(578,419,107)</u>	<u>44,440,312</u>
NET (DECREASE)/INCREASE IN CASH AND CASH EQUIVALENTS		(284,616,381)	478,024,948
Cash and cash equivalents at beginning of year		<u>626,958,967</u>	<u>148,934,019</u>
CASH AND CASH EQUIVALENTS AT END OF YEAR		<u><u>342,342,586</u></u>	<u><u>626,958,967</u></u>
ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS			
Cash at banks	9	1,518,224,712	1,195,226,742
Time deposits with original maturity over three months		<u>(1,175,882,126)</u>	<u>(568,267,775)</u>
Cash at banks with maturity of three months or less		<u><u>342,342,586</u></u>	<u><u>626,958,967</u></u>

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2009

1. GENERAL INFORMATION

The Protection of Wages on Insolvency 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 payment to employees whose employers have become insolvent.

The Fund consists principally of moneys received from the Commissioner of the Inland Revenue Department 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 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 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 to the statement of income and expenditure in the period in which it is incurred.

Depreciation is calculated on the straight-line basis to write off the cost of the Fund's property over its estimated useful life. The principal annual rate used for this purpose is 20%.

Operating leases

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

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2009

2.2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue recognition

Revenue is recognised on the following bases:

- (a) levy income, on an accrual basis for the cash receipts received by the Inland Revenue Department;
- (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.

3. INCOME

	2009 HK\$	2008 HK\$
Levy	439,374,150	512,988,200
Money recovered by subrogation	4,783,210	8,415,371
Bank interest income	27,083,660	38,065,565
	<u>471,241,020</u>	<u>559,469,136</u>

In accordance with the provisions of Sections 7 and 21 of the Business Registration Ordinance and Section 6 in Part III of the Protection of Wages on Insolvency Ordinance, a levy is imposed at the rate of HK\$450 and HK\$1,350, respectively on one-year and three-year business registration certificates issued on or after 14 March 2008 according to the Business Registration Ordinance (Amendment: Levy Reduction) Order 2008.

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2009

4. CLAIMS

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

(a) Wages

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

(b) Wages in lieu of notice

Not exceeding the equivalent of 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; and/or

(c) Severance payment

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

5. REMUNERATION OF BOARD MEMBERS

No Board members received any fees or other emoluments in respect of their services rendered to the Fund during the year (2008: Nil).

6. TAX

The Fund is exempt from Hong Kong taxation.

7. SUPERVISION FEE

In accordance with the provisions of Section 14 in Part IV of the Protection of Wages on Insolvency Ordinance, the Financial Secretary may determine a supervision fee, which shall be charged against the income of the Fund, at any time determined by him. An agreement has been reached between the 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 2009

8. PROPERTY

	Building HK\$
31 March 2009	
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>
31 March 2008	
At 1 April 2007, net of accumulated depreciation	16,484,807
Depreciation provided during the year	<u>(5,494,935)</u>
At 31 March 2008, net carrying amount	<u>10,989,872</u>

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

9. CASH AT BANKS

	2009 HK\$	2008 HK\$
Bank balances	162,593	189,451
Time deposits	<u>1,518,062,119</u>	<u>1,195,037,291</u>
	<u>1,518,224,712</u>	<u>1,195,226,742</u>

10. GENERAL RESERVE

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

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2009

11. OPERATING LEASE COMMITMENTS

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

At 31 March 2009, the Fund had total future minimum lease payments under non-cancellable operating lease falling due as follows:

	2009 HK\$	2008 HK\$
Within one year	180,000	98,787
In the second to fifth years, inclusive	<u>90,000</u>	<u>-</u>
	<u>270,000</u>	<u>98,787</u>

12. CONTINGENT LIABILITIES

At 31 March 2009, contingent liabilities not provided for in the financial statements are as follows:

	2009 HK\$	2008 HK\$
Claims received but not yet approved	<u>185,469,363</u>	<u>104,408,968</u>

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

PROTECTION OF WAGES ON INSOLVENCY FUND

NOTES TO FINANCIAL STATEMENTS

31 March 2009

13. FINANCIAL INSTRUMENTS

The Fund's principal financial instruments and their carrying amounts by category as at 31 March 2009 are as follows:

Financial assets

	Loans and receivables	
	2009 HK\$	2008 HK\$
Levy receivable	42,810,100	40,400,850
Interest receivable	1,359,449	3,471,033
Cash at banks	1,518,224,712	1,195,226,742
	<u>1,562,394,261</u>	<u>1,239,098,625</u>

Financial liabilities

	Financial liabilities at amortised cost	
	2009 HK\$	2008 HK\$
Approved claims payable	4,104,681	4,796,958
Accrued supervision fee	17,800,000	16,800,000
	<u>21,904,681</u>	<u>21,596,958</u>

The Fund's financial instruments arise directly from its operations and the main risk arising from them is credit risk. As the Fund's exposure to risk is kept to a minimum, the Fund has not used any hedging instruments.

14. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 15 September 2009..

