

# Protection of Wages on Insolvency Fund Board

Annual Report  
2016–17



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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 2016 to 31 March 2017 (the year).

In the year, I am glad to see that benefitting from the moderate growth of the overall economy of Hong Kong, the number of employees who were owed wages and other statutory compensation due to business cessation and who sought relief from the Protection of Wages on Insolvency Fund (the Fund) has slightly decreased. In the year, the Fund received a total of 3 114 applications, a drop of 13% over the figure of 3 569 in the preceding year, and approved 2 399 applications with a total payout of \$80.8 million of ex gratia payment, a decrease of 24% and an increase of 19% respectively over the figures in the preceding year<sup>1</sup>. During the period, the Board and colleagues of the Wage Security Division of the Labour Department (LD) demonstrated our continued commitment to ensure that the Fund aptly performs its role as a safety net, and provides timely relief to employees aggrieved by the closure of business of their insolvent employers.

The Board has the statutory functions of administering the Fund and making recommendations to the Chief Executive with regard to the rate of levy on Business Registration Certificates financing the Fund. In this respect, the Board has been monitoring closely the financial position of the Fund. The Fund has a surplus of \$312.5 million in the year and an accumulative surplus of \$4,590.6 million by the end of March 2017.

On 17 May 2016, the Court of Final Appeal (CFA) handed down judgment on a case of judicial review concerning the method of calculation of ex gratia payment on severance payment (SP) to be paid by the Fund, overturning the previous rulings of the Court of First Instance and the Court of Appeal of the High Court and allowed the applicant's appeal. The Board respects the judgment of CFA. Immediately after the handing down of judgment by CFA, LD has followed the method ruled by CFA in calculating the ex gratia payment on SP payable by the Fund. In tandem, claims from past applicants against the Board for the shortfall in ex gratia payment on SP under the Fund were processed on a case-by-case basis in accordance with CFA's interpretation of the relevant provisions and having regard to the information provided by

<sup>1</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.

the claimants. As at end-March 2017, the Board has received 667 claims for the aforesaid shortfall and processed 488 claims, with payment of the shortfall made to 365 claimants.

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.

In the year, I am glad that all members have participated actively, provided valuable views and made dedicated efforts to administer the Fund with collective wisdom and diligence. I would like to express my most sincere gratitude to them. We will continue to make every endeavour to provide appropriate and timely relief to 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, GBS, JP  
Chairman  
Protection of Wages on Insolvency Fund Board

September 2017



# MEMBERSHIP LIST OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD 2016-17

## Chairman

Dr. David WONG Yau-kar, GBS, JP

## Members

### Representing employees

Hon. POON Siu-ping, BBS, MH

Ms. LEUNG Fong-yuen

Mr. CHU Yin-cheong

### Representing employers

Mrs. CHOI KWAN Wing-kum, MH, JP

Mr. FUNG Hau-chung, BBS, JP

Mr. Mohan DATWANI

### Representing government departments

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

Assistant Official Receiver 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 2016-17



### Rear row from left:

**Mr. Ben LI Chi-keung**

Assistant Principal Legal Aid Counsel,  
Legal Aid Department

**Mr. William MAK Chi-tung**

Assistant Commissioner  
(Employees' Rights and Benefits),  
Labour Department

**Mr. Mohan DATWANI**

Representing employers

**Mr. CHU Yin-cheong**

Representing employees

**Ms. Ophelia LOK Pui-man**

Assistant Official Receiver  
(Legal Services)<sup>1</sup>,  
Official Receiver's Office

**Ms. Candice CHENG Lai-fan**

Secretary

### Front row from left:

**Mrs. CHOI KWAN Wing-kum, MH, JP**

Representing employers

**Mr. FUNG Hau-chung, BBS, JP**

Representing employers

**Dr. David WONG Yau-kar, GBS, JP**

Chairman

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

Representing employees

**Ms. LEUNG Fong-yuen**

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 2017.

## 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 respect of applications 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) an employee's entitlement to 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' applications 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<sup>2</sup>

During the year 2016-17, 3 114 applications involving ex gratia payment of \$268.1 million applied for were received from employees. A total of 530 suspected insolvency cases were recorded. Detailed breakdown of the applications is at **Appendix I**.

Of the 530 suspected insolvency cases, 512 involved less than 20 employees per case, 11 involved 20 to 49 employees per case, six involved 50 to 99 employees per case, and the remaining one involved 100 employees or more.

During the year, the industry of sports and other entertainment activities recorded the largest number of applications, with 571 applications involving a total amount of \$62.4 million. This was followed by the retail trade with 427 applications and a total amount of \$30.1 million, and food and beverage service activities with 388 applications and a total amount of \$12.6 million. These three trades accounted for 44.5% of all applications and 39.2% of the total amount applied for.

Out of the total 3 114 applicants in the year, 2 891 applied for ex gratia payment on arrears of wages, 2 220 applied for payment on wages in lieu of notice, 1 150

<sup>2</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.



applied for payment on severance payment and 1 969 applied for payment on pay for untaken annual leave and/or pay for untaken statutory holidays. Breakdowns of these applications are at **Appendices II, III, IV and V**.

## Applications processed

A total of 2 399 applications were approved during the year, resulting in payment amounting to \$80.8 million. Out of these, a total payment of \$26.4 million was made to 854 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<sup>3</sup>.

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 87.3% of applicants for arrears of wages, 97.9% of applicants for wages in lieu of notice, 66.9% of applicants for severance payment, and 43.3% of applicants for pay for untaken annual leave and/or pay for untaken statutory holidays.

The Commissioner for Labour rejected 28 applications involving a total amount of \$2.8 million, mostly for reasons such as applications without legal backing, insufficient evidence, or the applicants being registered company directors. At the same time, 446 applications involving a total amount of \$47.3 million were withdrawn, mainly as a result of direct settlement between employees and their employers or liquidators<sup>4</sup>.

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

<sup>3,4</sup> Information pertaining to claims for shortfall in ex gratia payment on severance payment has been excluded.

## MEETINGS OF THE PROTECTION OF WAGES ON INSOLVENCY FUND BOARD

The Board met four 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, work plan in handling applications for ex gratia on severance payment approved prior to the judgment of the Court of Final Appeal on a judicial review case on the method of calculation of ex gratia payment on severance payment. The Board has set up a special task force to examine and approve the claims for shortfall in ex gratia payment on severance payment. The task force met four times in the year.

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

During the year, the Fund had a total income of \$451.3 million, of which \$385.5 million was levy income. The total expenditure was \$138.8 million, of which \$83.5 million was expenditure on ex gratia payment. The Fund registered a surplus of \$312.5 million as compared with a surplus of \$224.9 million in the previous financial year. As at 31 March 2017, the Fund's accumulated surplus stood at \$4,590.6 million.

A copy of the independent auditor's report and the audited financial statements for the year ended 31 March 2017 is at **Appendix X**.

## ACTIVITIES HIGHLIGHT

### 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 2016-17, the Board noted that the court had disqualified a total of ten 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 two and a half years to four and a half 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 520 convicted summonses in respect of wage offences. Of these, 154 convictions were against company directors and responsible persons.

# Appendix



## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

### I. Breakdown of applications by result

(1) No. of cases received	530
(2) No. of applications	
(i) b/f last period	1 115
received this period	3 114
reconsidered this period	9
	<u>4 238</u>
(ii) processed	2 873
approved	2 399
refused	28
withdrawn	446
outstanding	1 360
put aside *	5
	<u>4 238</u>

(3) Amount of ex gratia payment (in HK\$'000) applied for	Arrears of wages	Wages in lieu of notice	Severance payment	Pay for untaken annual leave and/ or pay for untaken statutory holidays	HK\$'000
(i) b/f last period					129,015
received this period	104,940 +	48,383 +	92,343 +	22,459 =	268,125
reconsidered this period	458 +	26 +	141 +	128 =	<u>753</u>
					<u>397,893</u>

	Arrears of wages	Wages in lieu of notice	Severance payment	Pay for untaken annual leave and/ or pay for untaken statutory holidays	HK\$'000
(ii) approved	44,234 +	20,123 +	11,324 +	5,079 =	80,760
screened					141,913
refused					2,799
withdrawn					47,251
outstanding } put aside * }					<u>125,170</u>
					<u>397,893</u>

(4) No. of applications seeking review by the Fund Board	<u>1</u>
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### II. Presentation of petition in relation to applications approved

(1) No. of applications where a winding-up petition has been made	1 496
(2) No. of applications where a bankruptcy petition has been made	49
(3) No. of applications dealt with under S.18(1) of the Protection of Wages on Insolvency Ordinance	836
(4) No. of applications dealt with under S.16(1)(a)(ii) of the Protection of Wages on Insolvency Ordinance	<u>18</u>
	<u>2 399</u>

### III. Breakdown of cases by employment size

(1) Less than 20 employees	512
(2) 20 ~ 49 employees	11
(3) 50 ~ 99 employees	6
(4) 100 or more employees	<u>1</u>
	<u>530</u>

\* Cases pending private settlement or withdrawal.

## Operating results of the Protection of Wages on Insolvency Fund in 2016-17

### IV. Breakdown of applications by industry

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants ~		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division B</b>	<b>Mining and quarrying</b>	1	(1)	\$ 508,668.00
<b>Division C</b>	<b>Manufacturing</b>			
Sub-group				
10	Manufacture of food products	10	(3)	\$ 688,871.82
13	Manufacture of textiles	52	(12)	\$ 7,689,641.01
14	Manufacture of wearing apparel	1	(1)	\$ 163,729.50
15	Manufacture of leather and related products	10	(2)	\$ 956,913.11
17	Manufacture of paper and paper products	30	(3)	\$ 2,227,669.78
18	Printing and reproduction of recorded media	1	(0) <sup>#</sup>	\$ 91,775.24
19	Manufacture of coke and refined petroleum products	5	(1)	\$ 528,620.45
22	Manufacture of rubber and plastics products (except furniture, toys, sports goods and stationery)	8	(4)	\$ 616,998.30
24	Manufacture of basic metals	1	(1)	\$ 197,455.08
25	Manufacture of fabricated metal products (except machinery and equipment)	1	(1)	\$ 594,539.43
26	Manufacture of computer, electronic and optical products	31	(3)	\$ 3,112,981.81
27	Manufacture of electrical equipment	6	(2)	\$ 1,188,287.74
31	Manufacture of furniture	2	(2)	\$ 62,717.60
32	Other manufacturing	25	(7)	\$ 2,536,289.48
33	Repair and installation of machinery and equipment	2	(2)	\$ 1,012,840.91
<b>Division E</b>	<b>Water supply; sewerage, waste management and remediation activities</b>			
Sub-group				
38	Waste collection, treatment and disposal activities; materials recovery	37	(2)	\$ 1,125,601.05
39	Remediation activities and other waste management services	2	(1)	\$ 460,472.33
<b>Division F</b>	<b>Construction</b>	350	(98)	\$ 21,567,196.34
<b>Division G</b>	<b>Import/export, wholesale and retail trades</b>			
Sub-group				
45	Import and export trade	309	(88)	\$ 35,229,743.77
46	Wholesale	18	(4)	\$ 538,547.39
47	Retail trade	427	(38)	\$ 30,120,375.72

~ 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 2016-17

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants ~		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division H</b> Sub-group	<b>Transportation, storage, postal and courier services</b>			
49	Land transport	21	(10)	\$ 1,584,489.24
50	Water transport	5	(1)	\$ 1,794,887.35
52	Warehousing and support activities for transportation	52	(6)	\$ 2,643,604.87
53	Postal and courier activities	18	(5)	\$ 830,152.15
<b>Division I</b> Sub-group	<b>Accommodation and food service activities</b>			
55	Short term accommodation activities	12	(1)	\$ 615,176.67
56	Food and beverage service activities	388	(80)	\$ 12,611,445.93
<b>Division J</b> Sub-group	<b>Information and communications</b>			
58	Publishing activities	17	(4)	\$ 775,732.92
59	Motion picture, video and television programme production, sound recording and music publishing activities	4	(1)	\$ 115,000.00
60	Programming and broadcasting activities	161	(0) <sup>#</sup>	\$ 31,148,125.05
61	Telecommunications	5	(4)	\$ 1,219,430.02
62	Information technology service activities	67	(9)	\$ 6,579,372.75
63	Information service activities	3	(2)	\$ 75,362.78
<b>Division K</b> Sub-group	<b>Financial and insurance activities</b>			
64	Financial service activities (except insurance and pension funding)	32	(16)	\$ 6,978,679.20
66	Activities auxiliary to financial service and insurance activities	29	(4)	\$ 2,186,392.57
<b>Division L</b>	<b>Real estate activities</b>	10	(4)	\$ 365,143.05
<b>Division M</b> Sub-group	<b>Professional, scientific and technical activities</b>			
69	Legal and accounting activities	7	(2)	\$ 660,306.08
70	Activities of head offices; management and management consultancy activities	20	(7)	\$ 2,082,300.12
71	Architecture and engineering activities, technical testing and analysis	2	(1)	\$ 58,715.25
74	Advertising and market research	14	(7)	\$ 983,569.56
75	Other professional, scientific and technical activities	8	(4)	\$ 1,042,355.09

~ 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 2016-17

Hong Kong Standard Industrial Classification	Industry in which applicants worked	No. of applicants <sup>~</sup>		Amount applied for (including wages, wages in lieu of notice, severance payment, pay for untaken annual leave and/or pay for untaken statutory holidays)
<b>Division N</b> Sub-group	<b>Administrative and support service activities</b>			
77	Rental and leasing activities	2	(2)	\$ 185,758.62
78	Employment activities	3	(1)	\$ 173,078.41
79	Travel agency, reservation service and related activities	111	(15)	\$ 11,521,614.87
80	Security and investigation activities	13	(1)	\$ 231,577.87
81	Services to buildings and landscape care activities	79	(1)	\$ 1,313,556.76
82	Office administrative, office support and other business support activities	2	(1)	\$ 638,343.73
<b>Division P</b>	<b>Education</b>	27	(10)	\$ 1,062,326.45
<b>Division Q</b> Sub-group	<b>Human health and social work activities</b>			
86	Human health activities	14	(10)	\$ 793,665.47
<b>Division R</b> Sub-group	<b>Arts, entertainment and recreation</b>			
90	Creative and performing arts activities	13	(4)	\$ 382,055.93
92	Activities of amusement parks and theme parks	1	(1)	\$ 93,944.99
93	Sports and other entertainment activities	571	(5)	\$ 62,415,702.64
<b>Division S</b> Sub-group	<b>Other service activities</b>			
95	Repair of motor vehicles, motorcycles, computers, personal and household goods	1	(1)	\$ 16,033.10
96	Other personal service activities	52	(19)	\$ 3,348,176.67
<b>Division T</b> Sub-group	<b>Work activities within domestic households</b>			
97	Activities of households as employers of domestic personnel	13	(12)	\$ 348,166.61
98	Goods- and services-producing activities of private households for own use	8	(3)	\$ 31,240.00
Total :		3 114	(530)	\$ 268,125,418.63

<sup>~</sup> Figure in brackets denotes the number of suspected insolvency cases received in this year.

Note: Information as indicated in Appendix I excludes the claims for shortfall in ex gratia payment on severance payment.

## Breakdown of applications for ex gratia payment on arrears of wages received in 2016-17

<b>A. By amount</b> (including overtime pay and items that could be deemed to be wages)		
Amount	No. of applicants	Percentage
No entitlement/Not applied for	223	7.16
\$8,000 <sup>^</sup> or less	489	15.70
\$8,001 - \$18,000	816	26.20
\$18,001 - \$24,000	322	10.34
\$24,001 - \$27,000	134	4.30
\$27,001 - \$30,000	107	3.44
\$30,001 - \$33,000	89	2.86
\$33,001 - \$36,000 <sup>+</sup>	85	2.73
\$36,001 - \$39,000	81	2.60
More than \$39,000	768	24.67
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
<b>B. By period of outstanding wages</b> (excluding overtime pay and items that could be deemed to be wages)		
Period	No. of applicants	Percentage
No entitlement/Not applied for	391	12.56
Half month or less	338	10.85
More than 1/2 month to 1 month	527	16.92
More than 1 month to 2 months	1 280	41.10
More than 2 months to 3 months	318	10.21
More than 3 months to 4 months <sup>+</sup>	94	3.02
More than 4 months	166	5.34
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>

<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 2016-17

A. By amount		
Amount	No. of applicants	Percentage
No entitlement/Not applied for	894	28.71
\$2,000 <sup>‡</sup> or less	90	2.89
\$2,001 - \$6,000	473	15.19
\$6,001 - \$10,000	306	9.83
\$10,001 - \$15,000	424	13.62
\$15,001 - \$22,500 <sup>⌘</sup>	388	12.46
\$22,501 - \$25,000	74	2.38
More than \$25,000	465	14.92
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
B. By notice period		
Notice period	No. of applicants	Percentage
No entitlement/Not applied for	894	28.71
1 day - 7 days	520	16.70
8 days - 14 days	45	1.45
15 days	92	2.95
16 days - less than 1 month	96	3.08
1 month <sup>‡</sup> <sup>⌘</sup>	1 376	44.19
More than 1 month	91	2.92
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>

<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 received in 2016-17

A. By amount		
Amount	No. of applicants	Percentage
No entitlement/Not applied for \$8,000 <sup>❖</sup> or less	1 964	63.07
\$8,001 - \$36,000	68	2.18
\$36,001 - \$50,000	327	10.50
\$50,001 - \$80,000	154	4.95
\$80,001 - \$110,000	238	7.64
\$110,001 - \$140,000	106	3.40
\$140,001 - \$170,000	68	2.18
\$170,001 - \$200,000	52	1.67
\$200,001 - \$250,000	29	0.93
\$250,001 - \$300,000	50	1.61
\$300,001 - \$350,000	26	0.83
\$350,001 - \$370,000	12	0.39
\$370,001 - \$390,000	4	0.13
More than \$390,000	10	0.32
	6	0.20
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
B. By length of service		
Length of service	No. of applicants	Percentage
Not applied for or less than 2 years' service	1 971	63.29
2 - 4.99 years	509	16.35
5 - 5.99 years	93	2.99
6 - 6.99 years	60	1.93
7 - 7.99 years	55	1.77
8 - 8.99 years	58	1.86
9 - 9.99 years	50	1.61
10 - 14.99 years	168	5.39
15 - 19.99 years	82	2.63
20 - 24.99 years	46	1.48
25 - 29.99 years	19	0.61
30 - 34.99 years	2	0.06
35 - 38.99 years	0	0.00
39 - 40.99 years	0	0.00
41 - 42.99 years	1	0.03
43 years' service and over	0	0.00
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>

<sup>P</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.

Note: Information as indicated in Appendix IV excludes the claims for shortfall in ex gratia payment on severance payment.

**Breakdown of applications for  
ex gratia payment on pay for untaken annual leave  
and/or pay for untaken statutory holidays received in 2016-17**

<b>A. By amount</b>		
<b>Amount</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	1 145	36.77
\$2,000 or less	424	13.62
\$2,001 - \$4,000	406	13.04
\$4,001 - \$6,000	293	9.41
\$6,001 - \$8,000	184	5.91
\$8,001 - \$10,500 <sup>⌘</sup>	140	4.50
\$10,501 - \$20,000	254	8.16
More than \$20,000	268	8.59
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
<b>B. By leave year of pay for untaken annual leave</b>		
<b>Leave year</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	1 172	37.64
1 year or less	1 189	38.18
More than 1 year to less than 2 years <sup>⌘</sup>	481	15.45
2 years or above	272	8.73
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>
<b>C. By period involved in pay for untaken statutory holidays</b>		
<b>Period</b>	<b>No. of applicants</b>	<b>Percentage</b>
No entitlement/Not applied for	2 427	77.94
2 months or less	179	5.75
More than 2 months to 4 months <sup>⌘</sup>	111	3.56
More than 4 months	397	12.75
<b>Total :</b>	<b>3 114</b>	<b>100.00</b>

<sup>⌘</sup> Maximum amount of ex gratia payment on pay for untaken annual leave and/or 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 2016-17

### 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	199	8.30
\$4,000 or less	245	10.21
\$4,001 - \$8,000	229	9.55
\$8,001 - \$10,000	131	5.46
\$10,001 - \$12,000	140	5.84
\$12,001 - \$14,000	110	4.59
\$14,001 - \$16,000	105	4.38
\$16,001 - \$18,000	93	3.88
\$18,001 - \$28,000	411	17.13
\$28,001 - \$36,000 <sup>⊕</sup>	736	30.66
<b>Total :</b>	<b>2 399</b>	<b>100.00</b>

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

Amount	No. of applicants	Percentage
Not applied for/Not approved	718	29.93
\$2,000 or less	169	7.04
\$2,001 - \$3,000	121	5.04
\$3,001 - \$4,000	99	4.13
\$4,001 - \$5,000	83	3.46
\$5,001 - \$6,000	66	2.75
\$6,001 - \$10,000	199	8.30
\$10,001 - \$22,500 <sup>†</sup>	944	39.35
<b>Total :</b>	<b>2 399</b>	<b>100.00</b>

⊕

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.

## Analysis of ex gratia payment approved in 2016-17

<b>C. Analysis of payment approved for severance payment</b> (excluding claims for shortfall in ex gratia payment on severance payment)		
<b>Amount</b>	<b>No. of applicants</b>	<b>Percentage</b>
Not applied for/Not approved	1 749	72.91
\$8,000 or less	261	10.88
\$8,001 - \$22,000	238	9.92
\$22,001 - \$36,000	69	2.88
\$36,001 - \$50,000	26	1.08
\$50,001 - \$80,000	47	1.96
\$80,001 - \$110,000	6	0.25
\$110,001 - \$140,000	2	0.08
\$140,001 - \$170,000	1	0.04
\$170,001 - \$200,000	0	0.00
\$200,001 - \$210,000	0	0.00
\$210,001 - \$220,000 <sup>☆</sup>	0	0.00
<b>Total :</b>	<b>2 399</b>	<b>100.00</b>
<b>D. Analysis of payment approved for pay for untaken annual leave and/or pay for untaken statutory holidays</b>		
<b>Amount</b>	<b>No. of applicants</b>	<b>Percentage</b>
Not applied for/Not approved	1 085	45.23
\$1,000 or less	212	8.84
\$1,001 - \$3,000	487	20.30
\$3,001 - \$5,000	239	9.96
\$5,001 - \$7,000	130	5.42
\$7,001 - \$10,500 <sup>⌘</sup>	246	10.25
<b>Total :</b>	<b>2 399</b>	<b>100.00</b>

<sup>☆</sup> The maximum amount of ex gratia payment out of the Fund on severance payment.

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

## Analysis of approved ex gratia payment as percentage of the amount applied for by applicants in 2016-17

<b>A. Arrears of wages at maximum payment of \$36,000</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	87.28
90% or above	88.38
80% or above	89.72
70% or above	90.97
60% or above	91.80
50% or above	93.05
40% or above	94.15
30% or above	95.41
20% or above	97.10
10% or above	98.82
5% or above	99.73
<b>B. Wages in lieu of notice at maximum payment of \$22,500</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	97.91
90% or above	98.21
80% or above	98.51
70% or above	98.61
60% or above	99.15
50% or above	99.40
40% or above	99.65
30% or above	99.90
20% or above	100.00
10% or above	100.00

**Analysis of approved ex gratia payment  
as percentage of the amount applied for by applicants in 2016-17**

<b>C. Severance payment at maximum payment of \$50,000 + 50% of excess entitlement</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	66.86
90% or above	69.52
80% or above	74.04
70% or above	76.79
60% or above	81.12
50% or above	84.66
<b>D. Pay for untaken annual leave and/or pay for untaken statutory holidays at maximum payment of \$10,500</b>	
<b>Approved payment as percentage of the amount applied for</b>	<b>Percentage of applicants</b>
100%	43.29
90% or above	51.79
80% or above	59.36
70% or above	66.14
60% or above	73.77
50% or above	82.40
40% or above	88.38
30% or above	93.49
20% or above	97.14
10% or above	99.00
5% or above	99.67

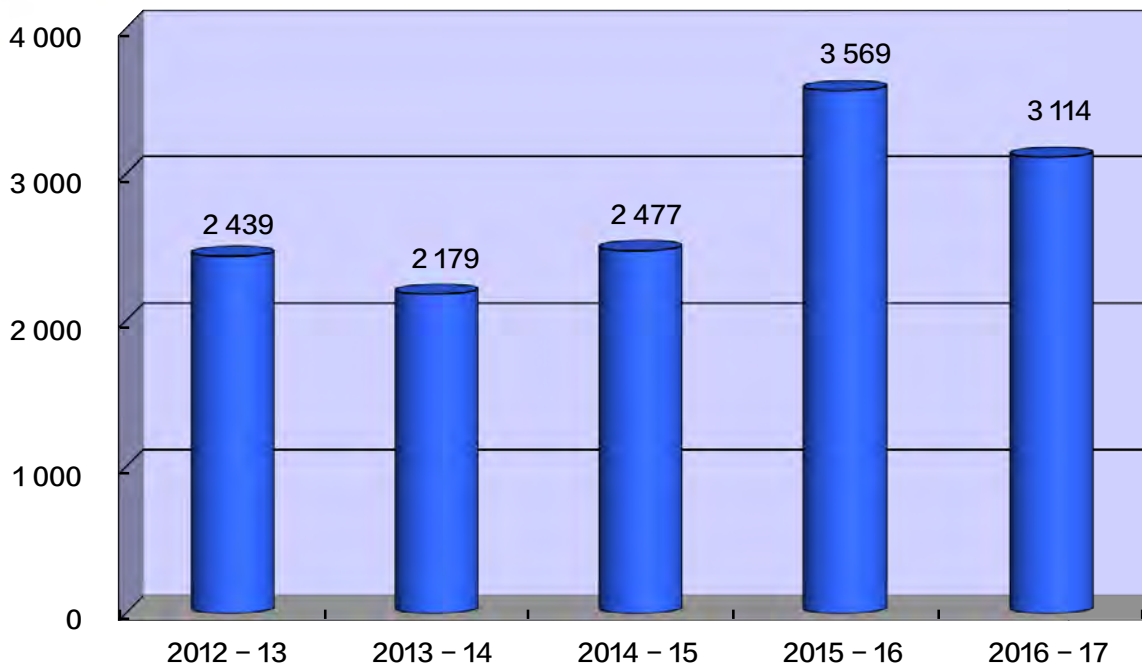
## Comparative figures on the performance of the Protection of Wages on Insolvency Fund from 2012-13 to 2016-17

**Figure 1**

**Number of applications received by the Fund from 2012-13 to 2016-17**

(excluding claims for shortfall in ex gratia payment on severance payment)

No. of Applications



**Figure 2**

**First three industries with the largest number of applications received from 2012-13 to 2016-17**

(excluding claims for shortfall in ex gratia payment on severance payment)

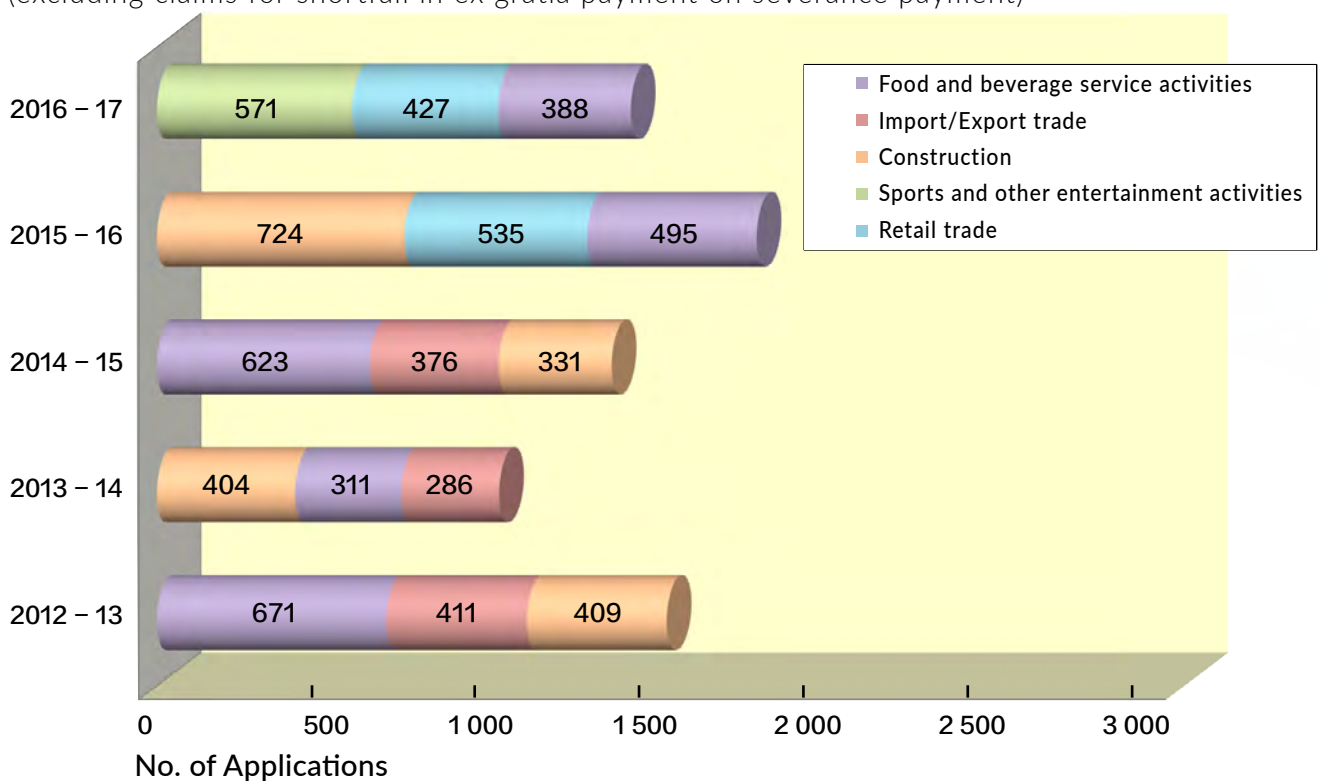
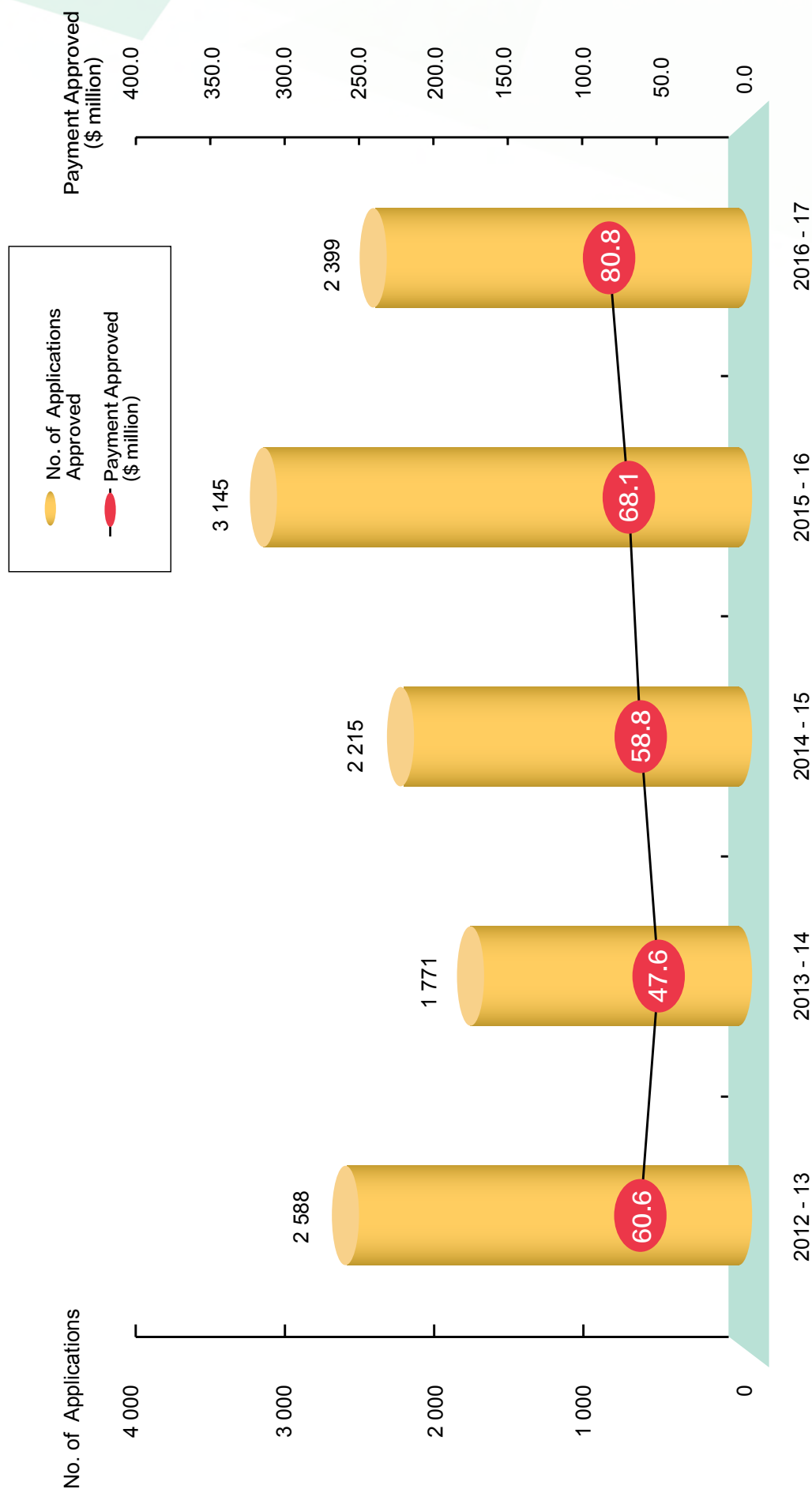


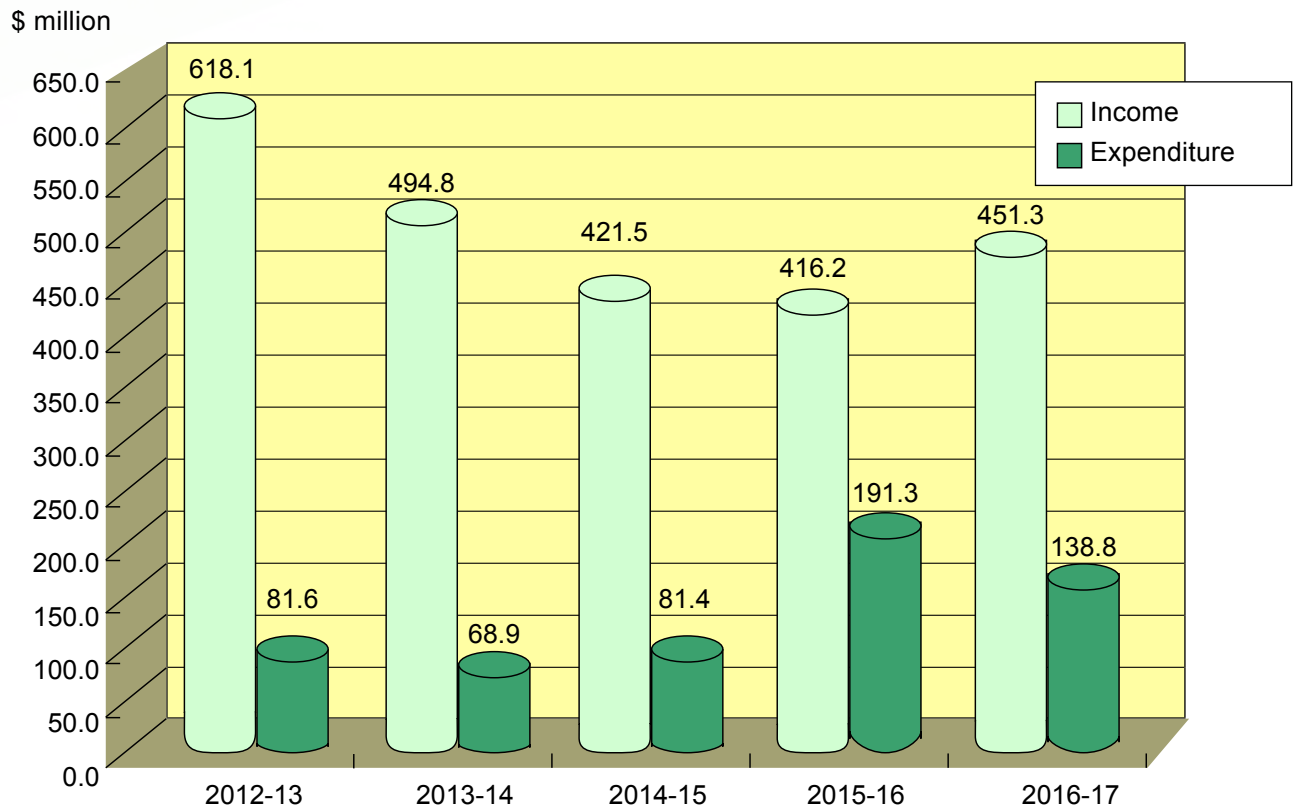
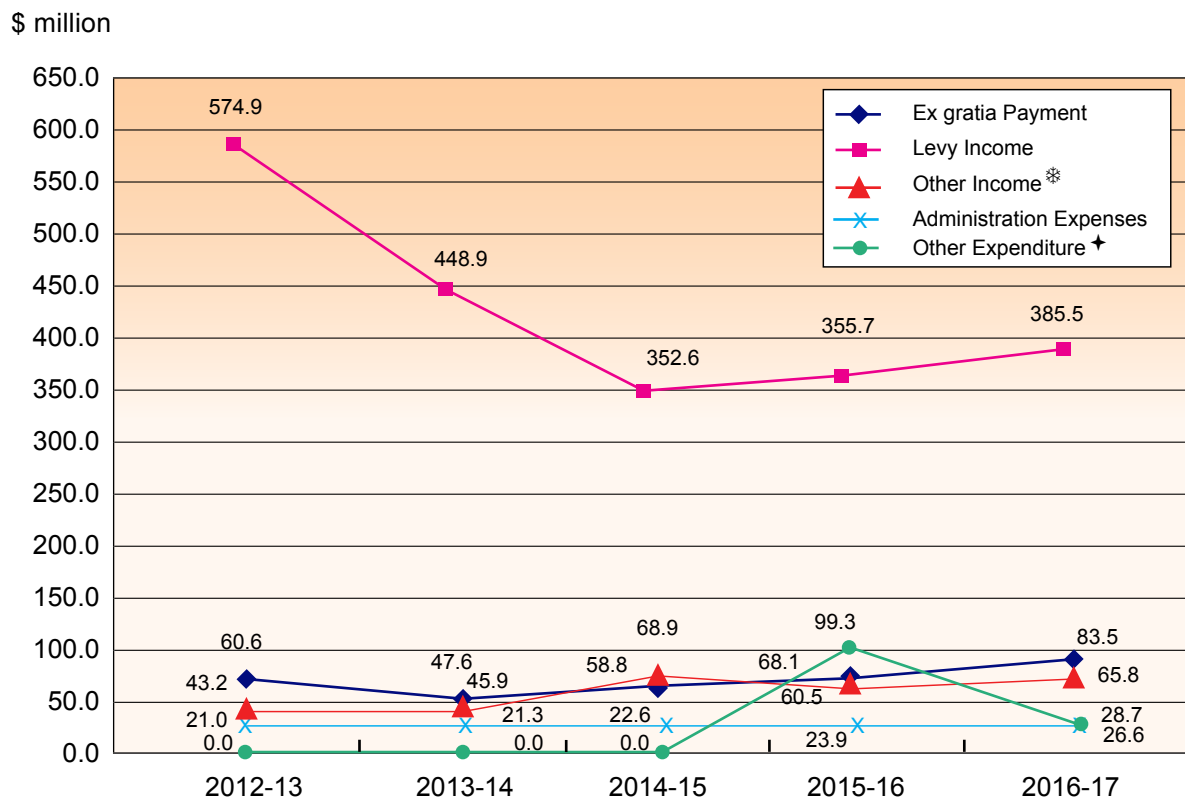


Figure 3

### Number of applications and amount of ex gratia payment approved from 2012-13 to 2016-17

(excluding claims for shortfall in ex gratia payment on severance payment)

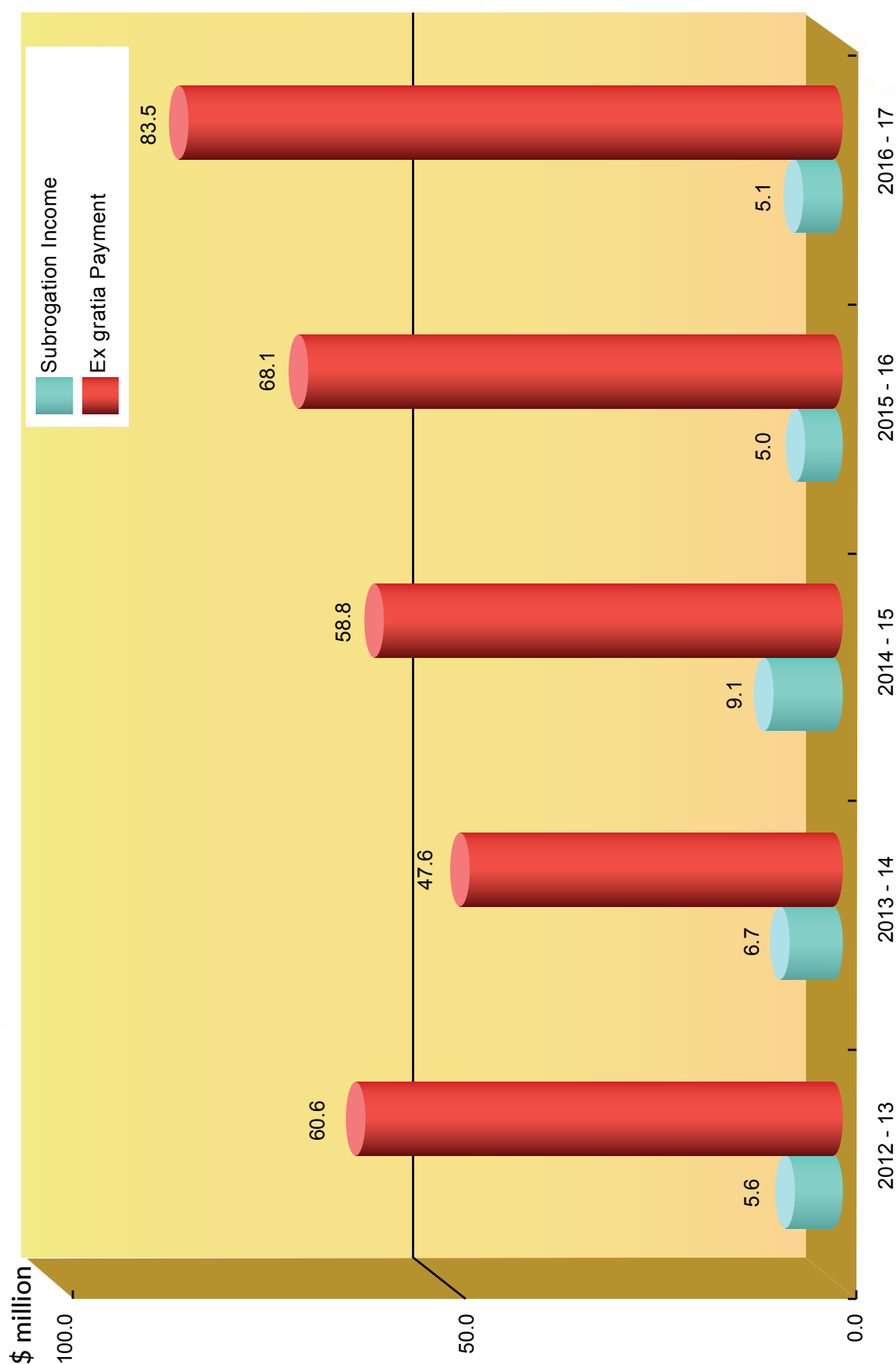


**Figure 4****Total income and expenditure of the Fund from 2012-13 to 2016-17****Figure 5****Breakdown of income and expenditure of the Fund from 2012-13 to 2016-17**

\* Bank deposit interests and money recovered through subrogation

† Provision for /(reversal of provision for) potential claims for ex gratia payments and foreign exchange differences

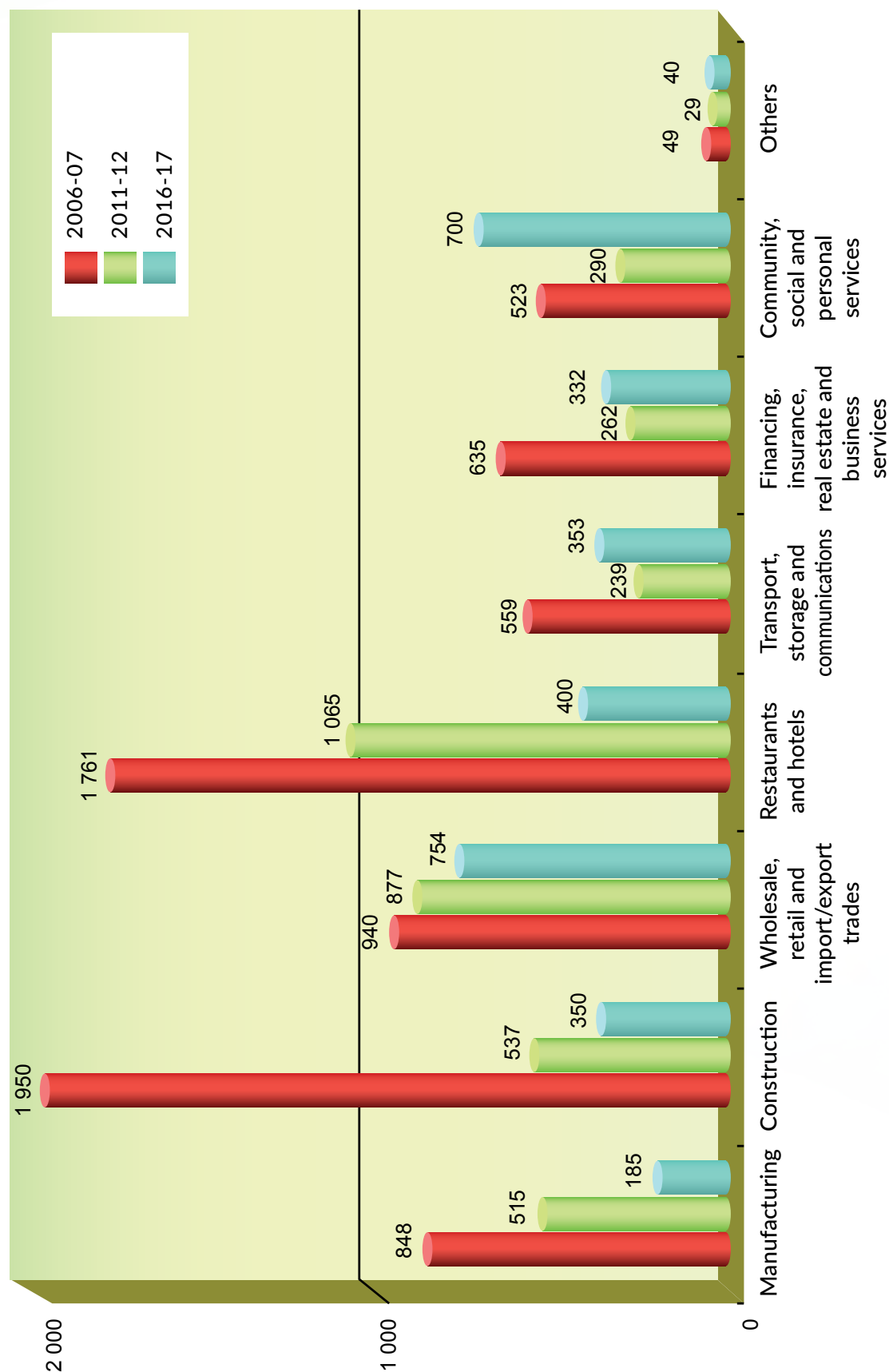
**Figure 6**  
Subrogation income and ex gratia payment of the Fund from 2012-13 to 2016-17



## Analysis of applications received by economic sector in 2006-07, 2011-12 and 2016-17

(excluding claims for shortfall in ex gratia payment on severance payment)

No. of Applications



Independent Auditor's Report and Audited Financial Statements

PROTECTION OF WAGES ON INSOLVENCY FUND

31 March 2017



## PROTECTION OF WAGES ON INSOLVENCY FUND

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Statement of changes in funds and reserves	6
Statement of cash flows	7
Notes to financial statements	8 - 17



**Independent auditor's report****To members of the Protection of Wages on Insolvency Fund Board**

(Established under the Protection of Wages on Insolvency Ordinance)

**Opinion**

We have audited the financial statements of the Protection of Wages on Insolvency Fund (the "Fund") set out on pages 4 to 17, which comprise the statement of financial position as at 31 March 2017, 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 notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements give a true and fair view of the financial position of the Fund as at 31 March 2017, and of its financial performance and its cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

**Basis for opinion**

We conducted our audit in accordance with Hong Kong Standards on Auditing ("HKSAs") issued by the HKICPA. Our responsibilities under those standards are further described in the *Auditor's responsibilities for the audit of the financial statements* section of our report. We are independent of the Fund in accordance with the HKICPA's *Code of Ethics for Professional Accountants* (the "Code"), and we have fulfilled our other ethical responsibilities in accordance with the Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

**Information other than the financial statements and auditor's report thereon**

The Protection of Wages on Insolvency Fund Board (the "Board") is responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

**Independent auditor's report (continued)**  
**To members of the Protection of Wages on Insolvency Fund Board**  
(Established under the Protection of Wages on Insolvency Ordinance)

**Responsibilities of the Board for the financial statements**

The Board is responsible for the preparation of financial statements that give a true and fair view in accordance with HKFRSs issued by the HKICPA 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.

In preparing the financial statements, the Board is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Board either intends to liquidate the Fund or to cease operations or has no realistic alternative but to do so.

**Auditor's responsibilities for the audit of the financial statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. 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.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with HKSAAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with HKSAAs, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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 Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.

**Independent auditor's report (continued)**

**To members of the Protection of Wages on Insolvency Fund Board**

(Established under the Protection of Wages on Insolvency Ordinance)

**Auditor's responsibilities for the audit of the financial statements (continued)**

- Conclude on the appropriateness of the Board's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Certified Public Accountants  
Hong Kong  
28 August 2017

# PROTECTION OF WAGES ON INSOLVENCY FUND

## STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

Year ended 31 March 2017

	Notes	2017 HK\$	2016 HK\$
INCOME	3	<u>451,293,135</u>	<u>416,228,722</u>
EXPENDITURE			
Ex gratia payments	4	83,543,509	68,054,912
Supervision fee	5	25,973,651	22,853,517
Provision for/(reversal of provision for) potential claims for ex gratia payments		( 11,016,058)	99,280,000
Auditor's remuneration		128,000	93,000
Rates and building management charges		334,314	317,235
Insurance		7,090	6,407
Printing and stationery		38,400	37,200
Foreign exchange differences		37,636,579	-
Miscellaneous expenses		<u>2,189,929</u>	<u>649,014</u>
TOTAL EXPENDITURE		<u>138,835,414</u>	<u>191,291,285</u>
SURPLUS AND TOTAL COMPREHENSIVE INCOME FOR THE YEAR	6	<u><u>312,457,721</u></u>	<u><u>224,937,437</u></u>



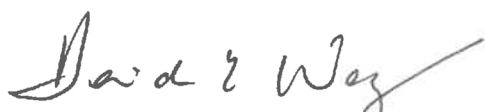


# PROTECTION OF WAGES ON INSOLVENCY FUND

## STATEMENT OF FINANCIAL POSITION

31 March 2017

	Notes	2017 HK\$	2016 HK\$
<b>NON-CURRENT ASSET</b>			
Property	9	-	-
<b>CURRENT ASSETS</b>			
Levies receivable		39,179,800	32,004,500
Interest receivables		17,011,581	14,989,976
Sundry deposits		232,128	49,000
Prepayment		88,000	80,000
Time deposits	10	4,644,752,374	4,357,027,614
Cash at banks	10	317,905	252,102
Total current assets		4,701,581,788	4,404,403,192
<b>CURRENT LIABILITIES</b>			
Approved applications payable		3,812,088	3,894,264
Accrued operation expenses		120,240	101,980
Accrued supervision fee	5	26,000,000	23,000,000
Provision for potential claims for ex gratia payments	11	81,064,791	99,280,000
Total current liabilities		110,997,119	126,276,244
<b>NET CURRENT ASSETS</b>		<b>4,590,584,669</b>	<b>4,278,126,948</b>
Net assets		4,590,584,669	4,278,126,948
<b>FINANCED BY:</b>			
Accumulated surplus		4,574,045,882	4,261,588,161
General reserve	12	16,538,787	16,538,787
Total accumulated funds and reserves		4,590,584,669	4,278,126,948



Dr. David WONG Yau-kar, GBS, 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 2017

	Accumulated surplus HK\$	General reserve HK\$	Total accumulated funds and reserves HK\$
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 and at 1 April 2016	4,261,588,161	16,538,787	4,278,126,948
Surplus and total comprehensive income for the year	<u>312,457,721</u>	<u>-</u>	<u>312,457,721</u>
At 31 March 2017	<u><u>4,574,045,882</u></u>	<u><u>16,538,787</u></u>	<u><u>4,590,584,669</u></u>



# PROTECTION OF WAGES ON INSOLVENCY FUND

## STATEMENT OF CASH FLOWS

Year ended 31 March 2017

	Notes	2017 HK\$	2016 HK\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Surplus for the year		312,457,721	224,937,437
Adjustment for bank interest income	3	( 60,683,615)	( 55,504,124)
		251,774,106	169,433,313
Decrease/(increase) in levies receivable	(	7,175,300)	5,345,600
Increase in sundry deposits	(	183,128)	-
Increase in a prepayment	(	8,000)	( 16,667)
Decrease in approved applications payable	(	82,176)	( 883,367)
Increase/(decrease) in provision for potential claims for ex gratia payments	(	18,215,209)	99,280,000
Increase in accrued operation expenses		18,260	6,280
Increase in accrued supervision fee		3,000,000	1,500,000
Net cash flows generated from operating activities		229,128,553	274,665,159
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Interest received		58,662,010	53,115,155
Decrease/(increase) in time deposits with original maturity over three months		226,875,240	(1,565,735,555)
Net cash flows generated from/(used in) investing activities		285,537,250	(1,512,620,400)
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>			
Cash and cash equivalents at beginning of year		514,665,803	(1,237,955,241)
		456,552,102	1,694,507,343
<b>CASH AND CASH EQUIVALENTS AT END OF YEAR</b>		<u>971,217,905</u>	<u>456,552,102</u>
<b>ANALYSIS OF BALANCES OF CASH AND CASH EQUIVALENTS</b>			
Bank balances	10	317,905	252,102
Time deposits with original maturity of three months or less when acquired	10	970,900,000	456,300,000
		<u>971,217,905</u>	<u>456,552,102</u>



31 March 2017

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 new and 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 2017.

2.3 ISSUED BUT NOT YET EFFECTIVE HONG KONG FINANCIAL REPORTING STANDARDS

The Fund has not applied any new and revised HKFRSs that have been issued but are not yet effective for the accounting year ended 31 March 2017 in these financial statements. The Fund is in the process of making an assessment of the impact of these 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.



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## 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.



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## 2.4 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

### Financial instruments (continued)

#### (b) Financial liabilities

Financial liabilities of the Fund include approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses. All such financial liabilities are initially recognised at the fair value of the consideration received, net of 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.



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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.

Foreign currency transactions

These financial statements are presented in HK\$, which is the Fund’s functional currency. Foreign currency transactions are initially recorded using the functional currency rates of exchange ruling at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies are retranslated at the functional currency rates of exchange ruling at the end of the reporting period. All differences arising on settlement or translation of monetary items are taken to profit or loss.

Non-monetary items that are measured in terms of historical cost in a foreign currency are translated using the exchange rates at the dates of the initial transactions.



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### 3. INCOME

An analysis of income is as follows:

	2017 HK\$	2016 HK\$
Levies	385,473,100	355,685,950
Money recovered by subrogation	5,136,420	5,038,648
Bank interest income	60,683,615	55,504,124
	<u>451,293,135</u>	<u>416,228,722</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.

### 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.



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 4. EX GRATIA PAYMENTS (continued)

#### (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 three 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 four 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.

### 6. SURPLUS FOR THE YEAR

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

	2017 HK\$	2016 HK\$
Auditor's remuneration	128,000	93,000
Employee benefit expense:		
Wages and salaries	371,611	259,018
Pension scheme contributions	37,636	27,265
	<u>409,247</u>	<u>286,283</u>
Minimum lease payments under operating leases	<u>555,079</u>	<u>264,356</u>



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 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 (2016: 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 2017

At 1 April 2015, 31 March 2016, 1 April 2016 and 31 March 2017:

Cost	27,474,677
Accumulated depreciation	( 27,474,677)
Net carrying amount	-

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

### 10. CASH AT BANKS AND TIME DEPOSITS

	2017 HK\$	2016 HK\$
Bank balances	317,905	252,102
Time deposits with original maturity of:		
Three months or less	970,900,000	456,300,000
More than three months to 12 months, inclusive	<u>3,673,852,374</u>	<u>3,900,727,614</u>
	<u>4,645,070,279</u>	<u>4,357,279,716</u>

At the end of the reporting period, the cash at banks and time deposits of the Fund denominated in Renminbi ("RMB") amounted to RMB325,584,529 (equivalent to approximately HK\$367,552,374) (2016: RMB311,033,062 (equivalent to approximately HK\$387,927,614)). The RMB is not freely convertible into other currencies. However, under Mainland China's Foreign Exchange Control Regulations and Administration of Settlement, Sale and Payment of Foreign Exchange Regulations, the Fund is permitted to exchange RMB for other currencies through banks authorised to conduct foreign exchange business.



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

### 11. PROVISION

	2017 HK\$	2016 HK\$
At beginning of year	99,280,000	-
Additional provision	-	99,280,000
Amounts utilised during the year	( 7,199,151)	-
Reversal of unutilised amounts	( 11,016,058)	-
At end of year	<u>81,064,791</u>	<u>99,280,000</u>

A provision of HK\$99,280,000 has been recognised for the year ended 31 March 2016 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. 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.

### 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 2017, the Fund had total future minimum lease payments under the non-cancellable operating lease falling due as follows:

	2017 HK\$	2016 HK\$
Within one year	735,420	132,000
In the second to fifth years, inclusive	<u>343,196</u>	<u>-</u>
	<u>1,078,616</u>	<u>132,000</u>





31 March 2017

14. CONTINGENT LIABILITIES

At 31 March 2017, contingent liabilities in respect of applications received but not yet approved and provided for in the financial statements amounted to HK\$125,169,859 (2016: HK\$129,015,202).

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, sundry deposits, time deposits, cash at banks, approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses approximate to their carrying amounts largely due to the short term maturities of these instruments.

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, sundry deposits, approved applications payable, accrued supervision fee and financial liabilities included in accrued operation expenses which arise directly from its operations. The main risks arising from the Fund's financial instruments are credit risk, 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.



# PROTECTION OF WAGES ON INSOLVENCY FUND

## NOTES TO FINANCIAL STATEMENTS

31 March 2017

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

#### *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 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>2017</u>		
If HK\$ weakens against RMB	1	3,675,524
If HK\$ strengthens against RMB	( 1)	( 3,675,524)
<u>2016</u>		
If HK\$ weakens against RMB	1	3,879,276
If HK\$ strengthens against RMB	( 1)	( 3,879,276)

#### *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 2017 and 31 March 2016.

### 17. APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements were approved and authorised for issue by the Board on 28 August 2017.

