



June 30, 2023

Noel Quinn
Group Chief Executive
HSBC
8 Canada Square
London, England

Dear Mr. Quinn,

We are writing to express our deep concern over the decision by HSBC—as a trustee institution of the Mandatory Provident Fund (MPF) Scheme—to decline applications from Hong Kong residents who hold British National (Overseas) (BN(O)) passports for early withdrawal of their pension funds in order to emigrate. The MPF Scheme is a government-regulated pension program that requires Hong Kong citizens to contribute. It allows individuals to request early withdrawal of their pension funds in the event of permanent departure from Hong Kong.¹ We are concerned that HSBC—in support of the Hong Kong National Security Law—is withholding pension funds from BN(O) passport holders and thus contributing to the oppression of people in Hong Kong.

The People's Republic of China (PRC) enacted the Hong Kong National Security Law in June 2020 which fundamentally undermined the rule of law in Hong Kong. The law greatly restricts Hong Kong citizens' freedoms of speech, assembly, association, expression, education, information, and a fair trial.² Indeed, the law is considered to have “no bounds” and “anyone who criticizes the Hong Kong or Chinese governments anywhere in the world can potentially be charged with violating the security law.”³ Hundreds of Hong Kong citizens were arrested in the first week of the law's implementation for participating in peaceful protests.⁴ Many more have been arrested since, including teenagers.⁵

¹ S. 15 of MPF Schemes Ordinance (Cap. 485 of the laws of Hong Kong SAR), Regulation 163 of MPF Schemes (General) Regulation (Cap. 485A of the laws of Hong Kong SAR) & the relevant terms of the Master Trust Deed.

² *Dismantling a Free Society: Hong Kong One Year after the National Security Law*, HUMAN RIGHTS WATCH (2021) available at www.hrw.org/feature/2021/06/25/dismantling-free-society/hong-kong-one-year-after-national-security-law.

³ *Id*; Javier Hernández, *Harsh Penalties, Vaguely Defined Crimes: Hong Kong's Security Law Explained*, N.Y. TIMES (June 30, 2020) available at www.nytimes.com/2020/06/30/world/asia/hong-kong-security-law-explain.html.

⁴ Ed Flanagan, Justin Solomon & Adela Suliman, *Hong Kong police make first arrests under new security law as thousands protest*, NBC NEWS (July 1, 2020) available at www.nbcnews.com/news/world/hong-kong-police-make-first-arrests-under-new-security-law-n1232631.

⁵ Malu Cursino, *Hong Kong detains first teenagers under national security law*, BBC NEWS (Oct. 8, 2022) available at www.bbc.com/news/world-asia-63186293.

From the beginning, both the United States and the United Kingdom have condemned the PRC's implementation and enforcement of the Hong Kong National Security Law. This law is a violation of the Sino-British Joint Declaration of 1984 (SBJD), wherein the PRC had committed to upholding Hong Kong's autonomy and democratic institutions.⁶ It also violates Hong Kong Basic Law, which protects property rights and forbids deprivation of property without due process.

In July 2020, the United States enacted the Hong Kong Autonomy Act (HKAA), which gives the U.S. government the authority to impose sanctions on 1) foreign persons contributing or attempting to contribute to the failure of the PRC to meet its obligations under the Joint Declaration or the Basic Law and 2) foreign financial institutions that conduct business with those individuals. And in January 2021, the United Kingdom launched a new visa program, opening a route for BN(O) passport holders in Hong Kong to live and work in the United Kingdom.

In response, the PRC Foreign Ministry promptly derecognized the BN(O) passport. Consequently, Hong Kong's Mandatory Provident Fund Authority (MPFA) instructed all MPF trustee institutions—including HSBC—to disregard the BN(O) passport and related visa documents. This determination effectively bars Hong Kong BN(O) passport holders from accessing their pensions. As much as \$2.7 billion in pension assets, which are often lifetime savings of many Hong Kong citizens who seek to emigrate, may be affected as a result of this policy.⁷

In order to assess your involvement in denying BN(O) passport holders access to their pensions, we respectfully request the following documents and information as soon as possible but no later than July 21, 2023:

1. When did HSBC, and any of its subsidiaries involved in MPFA matters, decide not to recognize the BN(O) passport as valid documentary proof of permanent departure from Hong Kong and/or not to grant access to MPF funds to Hong Kong citizens who have departed Hong Kong using a BN(O)? By whom and on what grounds was this decision made? Please provide any records documenting that decision-making process and evidencing the factors considered in making such a decision.
2. Is HSBC's Board of Directors aware of the decision not to permit access to BN(O) passport holders to MPF funds? If so, when did the Board members become aware of it, and what was the degree of involvement of the Board members (acting in that capacity or any other capacity) in the relevant decision(s)? Likewise, what factors were considered when your Board members made the decisions and/or gave the instructions?

⁶ *U.S. condemns China's new security law for Hong Kong, threatens further actions*, REUTERS (June 30, 2020) available at www.reuters.com/article/us-china-hongkong-security-usa/u-s-condemns-chinas-new-security-law-for-hong-kong-threatens-further-actions-idUSKBN2412N9.

⁷ Primrose Riordan, *Hong Kong emigrants to UK blocked from accessing £2.2bn in pensions*, THE FINANCIAL TIMES (Apr. 11, 2023) available at www.ft.com/content/c1d03096-d87b-4f01-b26d-dbaabd17eb17.

3. Since January 2021, what communications, decisions, or instructions (if any) were made or given by you, either directly or indirectly, to the subsidiaries in Hong Kong who are responsible for the oversight, management, or administration of the MPF Schemes?
4. With respect to those communications, decisions, or instructions as referred to above, please provide us with related documents, communications, and any other documentary evidence.
5. Have you or any of your subsidiaries in Hong Kong (including their personnel) had any communications with the PRC Ministry of Foreign Affairs, the Hong Kong SAR Government, the Hong Kong Monetary Authority, and/or the MPFA with respect to the National Security Law, the non-recognition of the BN(O), the early withdrawal of MPF funds, or other related issues? Please describe those communications (if any) and please provide us with related documents, communications and/or any other documentary evidence.

The House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party, and the Foreign Affairs Select Committee both feel very strongly about protecting the legitimate rights of Hong Kong residents and opposing any attempts to undermine the rule of law in Hong Kong. Your cooperation in investigating this matter is greatly appreciated.

Thank you for your attention to this important matter and prompt reply.

Sincerely,



Mike Gallagher
Chairman
Select Committee on China



Alicia Kearns, MP
Chair
Foreign Affairs Select Committee



Bob Seely, MP
Foreign Affairs Select Committee