

Splitting the HDB Flat and the CPF Monies on Divorce

What to ask and tell a divorce client when taking instructions on ancillary matters; what information to prepare before a mediation session.

This article is intended for those doing family work, particularly those who are new to such work. It sets out the various questions that you as a lawyer may wish to ask your client, and the various issues you may wish to draw to her attention when taking instructions regarding the ancillary matters, and when preparing for a mediation session. The article focuses on a simple scenario where the matrimonial assets consist of an HDB flat in either or both the parties' names, and/or the parties' CPF monies. It explores the options available to parties in the light of the recent amendments to the Central Provident Fund Act (Cap. 36) (the 'Act') which came into operation on 1 October 2007, and which deal with the division of CPF-related assets in matrimonial proceedings. The article does not deal in detail with other matrimonial assets such as CPF investments, HDB housing policies nor what constitutes a fair and equitable division of the matrimonial assets.

The questions and issues set out in this article are not intended to be either prescriptive or exhaustive, but only a general guide. Every lawyer must decide for himself what he wants to ask and tell his client based on the circumstances of that particular case.

The article is written on the assumption that your client is the Plaintiff wife in the divorce.¹ The questions to be asked should be the same, however, if your client is the Plaintiff husband in the divorce.

Establishing What the Matrimonial Assets Are, and the Parties' Contributions to Them

1.1 The matrimonial assets

A good guide on what questions to ask

regarding what assets your client and her spouse have (eg matrimonial flat, monies in bank accounts, shares, insurance etc) is the standard form Affidavit of Assets and Means (Form 35 of the Subordinate Courts Practice Directions (2006 Edition)). The Word document of this form may be found on the Family Court website at <http://app.subcourts.gov.sg/family/page.aspx?pageid=8572#1>.

For each asset, you may wish to ask your client:

- a Whose name is the asset in (where applicable)?
- b Who paid the purchase price?
- c Whether there is any proof of this payment, eg bank statements, receipts, etc.

If your client says that she paid cash for the asset, then you may wish to ask her where she obtained the cash from (eg loan from relatives, savings etc.), together with any supporting documentation (eg pay-slips, bank statements, IOU to relatives).

If your client claims cash for the asset was obtained from work, then you may wish to ask her to state the type of work, when she worked, how much she earned, together with supporting documentation (eg pay-slips, a letter from her employer).

1.2 Specific questions for specific assets

1.2.1 Central Provident Fund ('CPF') monies

a Questions you may wish to ask:

- i Does the client or her spouse have CPF monies? How much money, and in which account (ie Ordinary, Special, Medisave, Retirement and² Living Expenses Account(s))?³
- ii Does the client or her spouse have a CPF investment account? How much money is available in the investment account and what are the types of investments purchased under the CPF investment scheme?

As stated earlier, CPF investments are beyond the scope of this article. However, there is a guide available on the CPF website which provides information on the transfer/sale of CPF members' investment holdings under the CPF Investment Scheme - Ordinary Account, and the CPF Investment Scheme - Special Account. Before deciding whether to include the CPF Investment Scheme ('CPFIS') investments as part of the matrimonial assets for division, you and your client may wish to go through this step-by-step guide to understand the efforts involved to transfer/sell CPFIS investments pursuant to a court order.

The above guide can be found at <http://mycpf.cpf.gov.sg/CPF/my-cpf/make-invest/M15.htm>

- b Documents to be obtained from the client:
 - i CPF statements for the relevant accounts – Ordinary, Medisave, Special, Retirement and Living Expenses accounts (where applicable).
 - ii CPF investment account statement (where applicable).
- c How to obtain the relevant documents:

- i The client should be able to obtain her own statements, either by downloading a copy⁴ from the CPF website at <http://mycpf.cpf.gov.sg/Members/home.htm>, or by attending personally at the CPF Board main office or the various CPF service centres around the island during office hours.⁵
- ii If the client does not have a copy of her spouse's CPF statement, then you can make an oral application (usually at the ancillary pre-trial conference) for a court order in the standard form provided by the CPF Board (the 'CPF order'). It would be good practice to e-file the draft CPF order for the court's reference at least two days before the pre-trial conference. The CPF order requests the CPF Board to furnish information to the Plaintiff's solicitors regarding the Defendant's CPF monies in the following areas: (i) the amount of CPF monies (including interest) utilised by the Defendant to purchase the matrimonial flat; (ii) the amount of CPF monies standing in each and every one of the Defendant's CPF accounts as at the date of service of the CPF order on the CPF Board; and (iii) information regarding the Defendant's CPF investment account. A Word document of the standard CPF order may be found at the Family Court website at <http://app.subcourts.gov.sg/family/page.aspx?pageid=3747>

1.2.2 HDB flat

- a Questions you may wish to ask:⁶
 - i What is the present value of the HDB flat?
 - ii What is the present outstanding loan on the HDB flat?
 - iii Did the client or her spouse use any CPF monies to purchase the HDB flat? If so, how much was used?
 - iv Did the client or her spouse use any cash to purchase the HDB flat? If so, how much was used?
 - v What is the proportion of the

client's direct financial contributions versus her spouse's direct financial contributions to the flat?

- vi How much has to be returned to each party's CPF accounts upon sale of the flat?

Note: If the party (ie the 'Member') is 55 years old and above, at present the CPF Board does not require the full amount of the minimum sum deficiency to be returned to the client's CPF account, only the property pledge amount.⁷ But from 1 January 2009 onwards, such a Member will have to return an amount sufficient to make up the deficiency in the minimum sum, including the shortfalls for the cash portion of the minimum sum, if any. If there is no deficiency in his minimum sum at the time the property is sold, then he does not have to make any refund to his account.⁸ However the refunds will be capped at the principal amount used to purchase the property, together with accrued interest.

For example:

- 1 The Member is now 58 years old. He only has \$5,000 in his retirement account, and no other monies in any other CPF account. The pledged amount (including accrued interest) for his flat is \$40,000, but the total amount he used to purchase the flat (including accrued interest) is \$90,000. Assume the minimum sum requirement for the Member is \$90,000. The net sale proceeds of the flat less the HDB loan are \$150,000. Assume that no other party used CPF monies to purchase the flat. When he sells the property on or after 1 January 2009, he has to refund an amount to cover the deficiency in his minimum sum which is \$90,000 - \$5,000 = \$85,000. Thus, after refunding the necessary amounts to his CPF account, the Member will be able to obtain \$65,000 of the net sale proceeds of the flat in cash. However, if the Member has managed to set aside the full minimum sum in cash in his CPF account, there is no deficiency in the minimum sum and so no refunds are required if he sells the flat.
- 2 The Member is now 58 years old. He only has \$5,000 in his retirement

account, and no other monies in any other CPF account. The pledged amount (including accrued interest) is \$12,000, but the total amount he used to purchase the flat (including accrued interest) is \$16,000. Assume the minimum sum requirement for the Member is \$90,000. The net sale proceeds of the flat less the HDB loan are \$150,000. Assume that no other party used CPF monies to purchase the flat. When he sells the property before, on or after 1 January 2009, he has to refund the amount he used to purchase the property, including accrued interest, ie \$16,000. He need not top up his minimum sum shortfall at this point, but only during future withdrawals. Thus, he will be able to obtain net sale proceeds from the flat of \$134,000 in cash, after making the necessary refunds to his CPF account.

- vii Is there any outstanding Government loan/grant that has been paid into the CPF account of the spouse that must be paid back to the Government?

For example:

- 1 The HOPE grant: HOPE ('Home Ownership Plus Education') is a government scheme to help low-income families to keep their families small and upgrade themselves. There is a substantive housing grant provided under HOPE which may have to be repaid to the government upon divorce.⁹ The client should check with the Community Development Council which put her and her spouse onto the scheme as to how much of the housing grant, if any, has to be returned upon divorce.
- 2 Where the marriage is annulled rather than dissolved through divorce – any housing grant given by HDB may have to be returned to HDB, and the client should check with HDB if this is the case.

It is important to ask this question because this type of information will not be reflected in the parties' CPF statements.

- b Documents to obtain:
 - i A print-out from the internet showing

the resale transactions of flats in the same block/street as the matrimonial flat.

- ii Proof of any cash payments made by your client towards the property (eg bank statements, receipts).
 - iii CPF statements of both parties showing how much CPF monies each party spent to acquire the matrimonial flat.
- c. How to obtain them:
- i You can download the website 'valuation' yourself from www.hdb.gov.sg; click on 'Resale Transactions'¹⁰.
 - ii Your client should be able to furnish her own CPF housing statement (see paragraph 1.2.1.c (i) above) and proof of cash payments, where applicable.
 - iii If the client's spouse's CPF housing statement is not available, then you may make an oral application to the court for the standard CPF order, which would request the CPF Board to furnish this information. (See paragraph 1.2.1. c (ii) above).

1.3 Other questions to ask

You may wish to ask the following questions in order to establish the parties' indirect financial contributions to the matrimonial assets, and financial and non-financial contributions to the household:

1.3.1 Indirect financial contributions to the household

Who paid for:

- a renovations and/or conservancy fees, for the matrimonial flat
- b utilities;
- c property tax;
- d phone bills;
- e groceries; and
- f children's school fees etc.

Your client should provide receipts or other proof of payment.

1.3.2. Non-financial contributions

- a Did the client help the spouse in any business? If so – what did she do?
- b Did the client help the spouse in other ways – eg pay his debts?
- c Did the client look after the children – solely or with help?
- d Did the client help to look after her spouse's relatives (whom did she look after, when did she look after them, and how)?
- e Did the client do all, most or some of the housework and household chores?
- f Did the client have to work to supplement the household income because her spouse gave insufficient maintenance?
- g What else did the client do for the welfare of the family? (For eg take loans to pay for furniture, pay for other persons' medical expenses etc.)?

You may also wish to ask the converse of the questions above – ie whether the client's spouse helped the client with her business, to pay her debts, to take care of the children etc.

1.4. Others

Was there any agreement made between the parties on the division of the matrimonial assets?

If so, are there any documents to prove this? (For eg, a deed of separation containing terms relating to the matrimonial assets, or a pre-nuptial agreement)

What the Client Wants to Claim

The next set of questions you may wish to ask focuses on what the client wishes to claim in respect of the matrimonial assets. Specifically, what does the client wish to claim in respect of:

2.1 The HDB flat:

- a whether to dispose of or retain the flat (ie, transfer, sale, or surrender); and
- b the division of the flat – what proportion of the value of the flat

is the client claiming (eg the client wants the flat transferred to her and is willing to pay her spouse a cash consideration of \$10,000 and to refund the CPF monies he used to purchase the flat together with accrued interest; or the client wants the flat to be sold in the open market and to claim 30per cent of the net sale proceeds, etc.)

Note:

When using the term 'net sale proceeds', it is important to clarify just what exactly it is – eg, is it the sale proceeds net of (i) the outstanding mortgage loan; (ii) each party's CPF monies used to purchase the flat together with accrued interest and (iii) costs and expenses of sale; or the sale proceeds net of (i) only?

- c For HDB flats bought with HDB loans, the sale proceeds (including the option monies) will be used to pay off the following, in the order of priority stated below:¹¹
 - i outstanding HDB loan
 - ii HDB resale levy (if any)
 - iii required CPF refunds
 - iv costs, expenses and disbursements relating to the sale and thereafter any balance to be divided between the parties, as the court sees fit
- d For HDB flats purchased with private housing loans, the priority for the distribution of sale proceeds is as follows:¹²
 - i settlement of outstanding private housing loan;
 - ii settlement of requisite CPF refunds; and
 - iii settlement of costs, expenses, charges, commissions and disbursements relating to the sale; and thereafter any balance to be divided between the parties, as the court sees fit.

2.2 The spouse's CPF monies

ie, does she want a share of the spouse's CPF monies, or is she willing to give the spouse a share of her CPF monies?

Exploring the Different Options

Next, you would have to assess how

practical the client's claim is, in the light of the size of the matrimonial assets, the relevant CPF rules and regulations, and the client's financial resources or the financial resources that she could potentially raise.

You may wish to ask your client the following information:

- a Is your client/her spouse a Singaporean or Singapore PR?
- b Are your client and her spouse above or below 55 years of age? If they are below 55 years, are they close to 55 years or far away from 55 years?
- c Is your client a bankrupt?

If the client's spouse is turning 55 years soon, and your client intends to claim a share of his CPF monies, you may wish to expedite the matter, to ensure that he does not turn 55 years and withdraw his CPF monies before an order of court for the transfer of the monies to your client, or a charge on the CPF monies in favour of your client, can be made, extracted and served on the CPF Board.

3.1. Options for a client who is a Singaporean/Singapore PR and seeking a share of her spouse's CPF monies

3.1.1. CPF monies: transfer or charging order?

The client has two options: to apply for a

transfer of or charge on her spouse's CPF monies.¹³

Differences between transfer and charge:

3.1.2 Immediate transfer of the spouse's CPF monies into the client's account.

The order for transfer can be made to take effect immediately, or upon payment/refunds to the spouse's CPF account from sale of property, investments, etc.

- a You may wish to advise your client that:
 - i The transferred monies from the spouse's account will go into her CPF account. She cannot take the money out until she reaches 55 years or satisfies other withdrawal conditions under CPF laws. However she may apply to use these monies under various CPF schemes, for example for the purchase of property or for payment of housing loan.
 - ii If she does not have a CPF account, CPF will open an account for her when they transfer the monies pursuant to the court order.
 - iii Loans or grants repayable by the spouse to the government (eg HOPE grant, housing loan in nullity cases) will be deducted before a transfer is effected.¹⁸

b Conversely, the spouse should be aware that:

The order for transfer/the charge will take priority to the spouse's right to withdraw or transfer his CPF for various purposes, namely:

- i Withdrawal for housing purposes.
- ii Withdrawal for investment purposes under CPFIS.
- iii Top-up of the spouse's family members' CPF accounts.
- iv Top-up the spouse's special, Medisave and retirement accounts.
- v Payment of tuition fees under the CPF Education Scheme and in priority to every deduction the CPF Board is entitled to make (eg deduction for payment of insurance premiums under various insurance schemes: Home Protection Insurance Scheme, Dependants' Protection Insurance Scheme, Medishield Scheme).¹⁹

So the spouse may not have enough monies left in his account after the transfer to pay for these insurance schemes, which may then lapse.

3.1.3 Charging order

The client can apply for a charge on the spouse's CPF monies, to have a certain share of these monies paid out to her when he turns 55 years old. But the

TRANSFER ¹⁴	CHARGE ¹⁵
Not subject to the spouse's obligations to set aside Minimum Sum ('MS')/ Medisave Minimum Sum ('MMS') and the restrictions on withdrawals imposed on bankrupts	Subject to the spouse's obligations to set aside MS/ MMS and restrictions on withdrawals imposed on bankrupt
Greater certainty as to the amount that your client will receive as long as the ex-spouse's CPF account(s) has sufficient monies at the time the order is made or is to take effect (and is served on the Board)	Even if there are sufficient moneys in the spouse's CPF account(s) at the time the order is made (or is to take effect) to satisfy the charged amount, the amount that your client ultimately receives may be affected by the spouse's obligations to first satisfy the MS / MMS and restrictions on withdrawals imposed on bankrupts
Amount transferred will go to the client's CPF account	Amount charged will be paid to the client in cash
The client is only able to withdraw this amount when he/ she turns 55 but can utilize it under various CPF schemes	The client is only able to obtain this amount when the spouse turns 55
The client must comply with MS/ MMS requirements when he/ she withdraws this amount	

spouse has to comply with the MS and MMS requirements, and the restrictions on withdrawals by undischarged bankrupts. Government loans or grants will also be deducted before monies charged can be paid to the spouse.

3.1.4 What option should the client take?

You may wish to advise the client to consider:

- a How much money she can get under either option

You should do the calculations to find out the difference between the sum that the client could get transferred to her and the sum that she could charge, so that the client can decide which is the better option. (Note that if the spouse is an undischarged bankrupt, there will be restrictions on withdrawals of his CPF monies in a charging order situation as the spouse has to set aside an additional sum in the Living Expenses Account.)

- b When she will be able to get the money under either option

le, how close is she/her spouse to the age of 55 years? If the spouse is nearing 55 years, then it may make more sense for the client to have a charging order on the spouse's CPF monies instead of a transfer order. Then once the spouse turns 55 years, the client can apply to the CPF Board to have the monies charged paid to her in cash.

On the other hand, if the monies are transferred to the client's CPF account under a transfer order, prior to being able to withdraw the monies, the client may use the monies in the same way as any other CPF contributions, for payments under the various CPF schemes, e.g. housing, investment, etc.

3.2 Client who is not a Singaporean/Singapore PR ('Foreign Client') and who wants to claim a share of her spouse's CPF monies

A Foreign Client can get a charging order on her spouse's CPF monies²⁰ without the spouse having to first comply with

the MS and MMS requirements, and the restrictions on withdrawals by undischarged bankrupts.²¹ But she too can only be paid the money in cash after the Member has died, turned 55 years, etc. Government loans or grants will also be deducted before monies charged can be paid to the client.²²

3.3 HDB flat in the names of either or both the parties

3.3.1 If you have a Foreign Client²³ or the HDB flat (the matrimonial flat) is to be sold on the open market:

- a If there is an undertaking to refund²⁴ given by the spouse in relation to the withdrawal of the MS:

Before the HDB flat may be transferred to your client or sold in the open market, the MS withdrawn by the spouse must be paid back before the spouse's obligation under the undertaking to refund is discharged (unless the undertaking has been previously discharged, eg if the spouse is suffering from a terminal illness or disease²⁵)

- b If the spouse has used CPF monies to purchase, upgrade etc. the HDB flat:

The monies must be paid back at the point of sale before the charge on the HDB flat can be cancelled.²⁶

3.3.2 If the client is a Singaporean/Singapore PR:

- a If there is an undertaking to refund given in relation to the withdrawal of the MS:

The spouse's interest in the property can be transferred (but not sold) to your client.²⁷ In this event, the CPF Board will not enforce the undertaking given to refund the MS.²⁸ The Court may, but need not, order the MS or part thereof to be paid back either by the client or the spouse at the point of transfer of the HDB flat. You may wish to advise the client that:

- i When the flat is eventually sold, and she has not turned 55 years, or if she

is 55 years but there is a deficiency in the MS which she is required to set aside, then she must pay a certain amount back into her own account²⁹.

- ii There will be an undertaking to be given by the client to repay the amount.³⁰ This amount would be either the deficiency in the client's MS if she is 55 years and above at the time of sale; or if she's below 55 years at the time of sale, the amount which the spouse has given an undertaking to refund in respect of his MS, but which the court has not ordered to be refunded when ordering the immovable property to be transferred to the client.³¹

- iii The spouse should be aware that he is expected to meet his MS requirements at subsequent withdrawals, though he will not be required to top-up his MS at the time of the transfer of the property to the client.³²

- b Where there is a charge on an HDB flat in relation to CPF money used to purchase, upgrade etc. the property:

The HDB flat can be transferred (but not sold) to the client, without the spouse or the client having to pay back any of the spouse's CPF monies or even enough to make up his MS³³. However, when the property is subsequently sold, the client must refund into her own account (i) the CPF monies she used to purchase the property, together with accrued interest; and (ii) the CPF monies the spouse used to purchase the property (including the MS secured by the former charge on the property), which were not ordered by the Court to be repaid at the point of transfer, together with accrued interest. There will be a charge on the property to secure this repayment.

For example (where both client and spouse are below 55):

The spouse used \$100,000 of his CPF monies to purchase the HDB flat, and the client used \$50,000 of her CPF monies to purchase the HDB flat. The Court orders the spouse to transfer his share of the flat to the client and \$20,000 to be paid to the

spouse's account by the client upon transfer. Thus, the spouse will not be refunded (and hence 'loses out' on) the \$80,000 of his CPF monies which he used to purchase the HDB flat. At the time of transfer, the client would have to pay \$20,000 into the spouse's account. At the time of disposal of the property by the client in the future, the client would have to refund her own \$50,000 with accrued interest and \$80,000 (the amount that the spouse should have been paid back, but he 'lost out' on at the ancillary matters hearing) with accrued interest.³⁴ Any government loans and grants repayable by the spouse must be deducted before the transfer can be effected.³⁵

Is the Client's Claim in Respect of the Matrimonial Assets Fair?

The previous section dealt with the issue of what your client's options are, and hence whether her claims were practical. However, the next question which has to be asked is whether her claims are fair. This is the key question that has to be answered in order to advise the client on what would be a fair settlement at mediation, and her best and worst possible outcomes at a hearing. To answer this question you need to know:

- a What proportion of the matrimonial assets the client is claiming
- b How much the client has contributed to these assets directly (as per paragraph 1.1 and 1.2 above); and
- c What indirect financial and non-financial contributions the client has made for the household (as per paragraph 1.3 above)

To establish the position in a. above you may wish to do the calculations for the client's claim, using the information that you have obtained.

For example:

The spouse has \$50,000 in his CPF Ordinary Account at present, and has used \$40,000 from his CPF (including accrued interest) to purchase the HDB flat. The client has \$20,000 in her CPF Ordinary Account, and has used \$20,000 from her CPF (including



Calculations:

- i Net sale proceeds of the HDB flat:
\$200,000 less \$70,000 less (\$40,000 + \$20,000) = \$70,000
- ii Monies in the spouse's CPF account after the flat is sold:
\$50,000 + \$40,000 = \$90,000
- iii Monies in the client's CPF account after the flat is sold: \$20,000 + \$20,000 = \$40,000

Total pool of matrimonial assets: \$70,000 (net sale proceeds of HDB flat) + \$90,000 (OP's CPF monies including CPF refunds from sale of flat) + \$40,000 (AP's CPF monies including CPF refunds from sale of flat) = \$200,000.

accrued interest) to purchase the HDB flat. The valuation of the HDB flat is \$200,000 and the outstanding HDB loan is \$70,000.

The client's claim:

If the client is claiming all the net sale proceeds of the HDB flat, ie \$70,000, as well as \$30,000 of the other party's CPF monies, then that gives her 50 per cent of the matrimonial assets. (\$100,000 divided by \$200,000).

Armed with this information, you may then proceed to make an assessment as to whether the client's claim is fair, taking into account all the factors set out in Section 112 of the Women's Charter (Cap. 353) (ie both parties' direct and indirect contributions, the length of the marriage, the needs of any children of the family etc.)

Recording Consent Orders

5.1 Suggested clauses

The CPF Board has come up with suggested clauses (CPFB Revised Version 28-09-2007) for the transfer and charging of monies in CPF accounts, the transfer of property, and the transfer or sale of investments under the CPF investment scheme. Copies of these may be found at the Family Court website at <http://app.subcourts.gov.sg/family/page.aspx?pageid=3747>. It would be good practice to refer to these when drafting orders in relation to CPF-related assets.

5.2 Orders for transfer of CPF monies

When recording an order for the transfer of CPF monies, you should ensure that the order specifies which CPF accounts of the spouse the monies should be transferred from. You do not, however, have to specify the client's accounts to which the monies are to be transferred to, as CPF Board will transfer the monies to the accounts in accordance with its laws. Usually the transfers will be to the corresponding accounts. eg \$30,000 in the spouse's Ordinary account will be transferred to the client's Ordinary account. (See Regulation Three (Designated Account) of the Central Provident Fund (Division of Fund-Related Assets in Matrimonial Proceedings) Regulations 2007 (the 'Regulations') for details regarding which accounts of the

aggrieved party the other party's monies should be transferred into).

5.3 For all orders in relation to transfer and charging of CPF monies, and transfer/sale of property involving refunds of CPF monies

You should remember to inform the court if there is any amount to be repaid/refunded to the government, before seeking any order to transfer, charge or refund CPF monies.

After the Making of the Consent Order

6.1 Service of court orders³⁶

Orders for transfer of monies from the spouse's to the client's account, or charging orders on the spouse's account must be extracted and served on the CPF Board before the Board will effect the transfer/charge the monies.³⁷ Therefore once a court order is extracted, the CPF Board must be served *as soon as possible*.

The court order must be served by leaving it with any officer or employee of the CPF Board at the CPF Board (Retirement Schemes Department, Applications Section, CPF Building, 79 Robinson Road, Singapore 068897) between 8:30 am – 5 pm on any working day (not Saturdays, Sundays or public holidays), and between 8:30 am and 12 pm on any working day which is the eve of New Year's Day, Chinese New Year or Christmas Day. Please note that the Regulations specifically state that it must be served on the Retirement Schemes Department; thus serving it on another department will not suffice.

6.2 Notification of refunds to CPF accounts³⁸

If there are to be monies transferred or charging orders made on the spouse's CPF monies only after refunds or payments of certain monies into the spouse's CPF account, then the CPF Board has to be notified when the refunds or payments have been made (eg when the HDB flat has been sold and the CPF monies used to purchase the property have been returned to the spouse's CPF account).

You may wish to advise the client to

inform the CPF Board once the HDB flat has been sold by serving the appropriate notice in writing on them. The notice has to state the date of the refunds or payments into the spouse's CPF account, and the amount refunded or paid.³⁹ It is important that she informs the CPF Board quickly, in case the spouse turns 55 years and withdraws the monies which have been put into his account.

6.2.1 How to serve this notice?

The notice must be served by leaving the document with the CPF Board (Retirement Schemes Department, Applications Section, CPF Building, 79 Robinson Road, Singapore 068897) between 8:30 am – 5 pm on any working day (not Saturdays, Sundays or public holidays), and between 8:30 am and 12 pm on any working day which is the eve of New Year's Day, Chinese New Year or Christmas Day.

In cases where the payment or repayment is made or is to be made from the proceeds of the sale or disposal of any investment made by the client/her spouse, then the notice can be served as above, except that the form for the notice must be obtained from the Board. A more convenient and faster method would be by electronic means (this means that the CPF Member who is ordered to dispose of his investments can log on to his personal CPF account online via Singpass to notify the Board of such payment/repayment of proceeds of the sale or disposal of investments. Currently this is the only permitted electronic means of notification).

6.3 Charging orders

If your client has obtained a charging order against the spouse's CPF monies, then after the spouse has turned 55, she will be allowed to withdraw the monies. At that point she has to apply to the CPF Board to withdraw the monies. You may wish to advise her to take note of when the spouse turns 55 years, so that she can go to the CPF Board main office or service centres to make the necessary application.

Lim Hui Min⁴⁰

Legal Aid Bureau

E-mail: LIM_Hui_Min@lab.gov.sg

Notes

- 1 The term 'divorce' as used in this article will also be used to refer to annulments of marriage and judicial separation (where applicable).
- 2 The Retirement Account is for members who have reached 55 years of age. When a Member reaches 55, he will need to set aside his Minimum Sum, using the savings in his Special and Ordinary Accounts, in the Retirement Account. He can then withdraw the rest of the savings in his Ordinary and Special Accounts in one lump sum. For more information on the Retirement Account, see <http://mycpf.cpf.gov.sg/Members/home.htm>
- 3 A bankrupt who turns 55 years of age can only withdraw his CPF savings on a monthly basis. The savings in his Ordinary and Special Accounts will be transferred to his Living Expenses Account and payment will continue until the total Living Expense amount is fully paid to him. However, if he is discharged from bankruptcy, a lump sum payment of the remaining balance will be made to him. For more information on the Living Expenses Account, see <http://mycpf.cpf.gov.sg/Members/home.htm>
- 4 The client will need to log in using her Singpass.
- 5 Information on the addresses and opening hours of the CPF Board main office can be found at: <http://mycpf.cpf.gov.sg/cpf/Contact-Us/Offices/Offices.html>
- 6 Please note that these questions do not include those concerning HDB rules and regulations which you should also ask, such as whether the parties have fulfilled the Minimum Occupation Period for the HDB flat (and are thus entitled to sell it on the open market), whether the flat will be subject to redevelopment under the Selective En-bloc Redevelopment Scheme ('SERS') etc. Information on HDB's rules, regulations and policies may be found on their website at: www.hdb.gov.sg.
- 7 Note that under sections 15(9) to 10(A) of the Act, a Member may pledge his property to withdraw his minimum sum up to the maximum pledge component allowed under the various Minimum Sum Regulations, which is generally only up to 50% of the minimum sum.
- 8 See http://www.mom.gov.sg/publish/momportal/en/press_room/mom_speeches/2007/20070308-committee.html, at para. 27.
- 9 More information on the HOPE scheme may be found at: http://app.mcys.gov.sg/web/corp_press_story.asp?szMod=corp&szSubMod=press&qid=263
- 10 See <http://www.hdb.gov.sg/bb33/isp051p.nsf/Search>
- 11 See Reg. 13 (12) of the CPF (Approved Housing Schemes) Regulations ('Housing Regulations').
- 12 See Reg. 14A (12) of the Housing Regulations.
- 13 Section 27B(1)(a) of the Act.
- 14 Section 27B(1)(a)(i) of the Act.
- 15 Section 27B(1)(a)(ii) of the Act.
- 16 Section 27B(6)(a) of the Act.
- 17 Section 27B(7) of the Act.
- 18 Section 27B(2) and (3) of the Act.
- 19 Section 27B(6)(b) and (7)(b) of the Act.
- 20 Section 27B(1)(b) of the Act.
- 21 Section 27B(6)(a) of the Act.
- 22 Section 27B(2) of the Act.
- 23 A foreign spouse is not entitled to have a transfer of the member's CPF monies into her account, under Section 27B(1) of the Act.
- 24 A Member may withdraw part of his MS by giving an undertaking to refund his MS if a property that he owns (either jointly or with his spouse or with related individuals) is sold. His property can be pledged for up to 50% of the MS. (See Section 15(9) and (9A) of the Act.)
- 25 See Section 15(8) of the Act, specifically sub-paragraph (g).
- 26 Section 15(11) of the Act.
- 27 Section 27D of the Act.
- 28 Section 27D(1)(iv) of the Act.
- 29 Section 27D(1)(iii) of the Act.
- 30 Section 27D(1)(v) of the Act.
- 31 See Section 13 of the Housing Regulations; see especially subsection (2), and subsection (12) (definition of 'relevant amount').
- 32 Section 27D(1)(ii) of the Act.
- 33 Section 27F of the Act.
- 34 This example has been taken from the article by Ms Naina Parwani and Ms Lynne Loh entitled 'Division of CPF-Related Assets in Matrimonial Proceedings' in the December 2007 issue of the Singapore Law Gazette.
- 35 Section 27F(1)(i) of the Act.
- 36 Section 7 of the Regulations.
- 37 Section 27I(2) of the Act.
- 38 Section 27B(5) of the Act.
- 39 Regulation 5 of the Regulations.
- 40 The author is grateful to Naina Parwani and Lynne Loh, legal officers with the CPF Board, for their very helpful comments on this article, which were given in their personal capacities. The author is currently a Senior Assistant Director of the Legal Aid Bureau. However, the views expressed in this article are entirely her own.