



強制性公積金計劃管理局
MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

電話號碼 Tel No : 2292 1369

傳真號碼 Fax No :

電郵地址 Email :

本局檔號 Our Ref :

來函檔號 Your Ref :

By Email

31 May 2022

Circular Letter: SU/CCI/2022/001

To: All Principal Intermediaries

Dear Responsible Officers,

Range of Disciplinary Sanctions against Registered Intermediaries

Background

The Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) empowers the Mandatory Provident Fund Schemes Authority (MPFA) to make a disciplinary order against a regulated person or registered intermediary (RI) for any failure to meet the standards of conduct as set out in the conduct requirements under section 34ZL of the MPFSO and the Guidelines on Conduct Requirements for Registered Intermediaries (Conduct Guidelines) when carrying on a regulated activity.

To promote transparency and facilitate the industry's understanding of how the MPFA makes determination on disciplinary orders, this circular sets out the different types of disciplinary orders and the factors relevant to the determination of the level of sanction to be imposed. The range of sanctions imposed by the MPFA against subsidiary intermediaries (SIs) in some of the past cases vis-à-vis different types of misconduct is also set out for reference by the industry.

Types of disciplinary orders

Pursuant to the MPFSO (section 34ZW), the MPFA may make any of the following types of disciplinary order against a RI:

- (a) revocation of registration and disqualification from registration as RI for a period determined by the MPFA;
- (b) suspension of registration as a RI for a period determined by the MPFA;
- (c) public reprimand;
- (d) private reprimand; and
- (e) pecuniary penalty not exceeding whichever is the greater amount of:
 - (i) \$10,000,000; or
 - (ii) three times the amount of the profit gained or loss avoided by the RI as a result of the failure to comply with a conduct requirement.

Such disciplinary power is also exercisable by the MPFA in relation to a person who was a RI at the time of the non-compliance, regardless of whether the person is a RI when the power is being exercised.

Relevant factors for determination of the level of sanction

The MPFA will consider all circumstances of a case and take into account of the need for consistency, fairness and the extent to which a deterrent effect should apply, including but not limited to the factors and considerations as set out in the earlier circular of June 2021 (SU/CCI/2021/001) such as the nature and seriousness of the misconduct, whether the RI attempted to conceal the misconduct, any commission or money gained by the RI, any loss caused to or impact on any party, the general public interest or public confidence in the MPF system, any remedial steps taken by the RI including compensation to the scheme member or others affected, previous disciplinary records and compliance history, degree of cooperation with the MPFA or the relevant frontline regulator, whether the misconduct is widespread in the industry, whether the MPFA has issued guidelines, guidance or circular letters concerning the misconduct and all other aggravating and mitigating circumstances in the case.

Disciplinary orders imposed in some cases involving common misconduct

The MPFA has imposed disciplinary orders for various types of misconduct against SIs in the past. The more dishonest acts or counts of misconduct involved, more severe disciplinary order with heavier sanction is likely to be imposed. To facilitate the industry's understanding of the MPFA's determination of disciplinary orders, an Annex is attached hereto which sets out the range of disciplinary orders previously imposed on SIs in some cases involving common misconduct such as:

- (a) unauthorized transfer of MPF benefits without the scheme member's consent (to effect such transfer, some SIs have also forged the member's signature and misused the member's personal information in some cases);

- (b) impersonation of scheme member in calling an MPF trustee to obtain the member's account information; and
- (c) failure to provide clear and accurate information for scheme members to make material decisions relevant to MPF and obtain approval from the principal intermediary (PI) on marketing materials distributed to scheme members.

The press releases of disciplinary cases issued by the MPFA are available at its website (<https://www.mpfa.org.hk/en/enforcement/mpf-intermediary/enforcement-news>).

Please note that the MPFA's determination in an individual case on whether or not to make a disciplinary order and any disciplinary order (including the level of any sanction or penalty) to be imposed is subject to the particular facts and circumstances of each case. Any past disciplinary determination of the MPFA should not be construed as a binding precedent for any future case. For any misconduct that is recurring in the industry, the MPFA may step up its disciplinary actions for deterrent effect as appropriate.

It is important for all RIs to comply with the conduct requirements under the MPFSO and the Conduct Guidelines. PIs are required to establish and maintain effective controls and procedures for securing SIs' compliance with the requirements.

Should you have any questions about the contents of this circular, please contact Ms Clio Wong on 2292 1369.

Yours sincerely,



Doris Tin
Senior Manager
Enforcement Division

Encl

- c.c. Ms Candy Tam, Senior Manager, Banking Conduct Department, Hong Kong Monetary Authority
- Ms Emma Tong, Senior Manager, Licensing, Intermediaries, Securities and Futures Commission
- Ms Shirley To, Senior Manager, Market Conduct Division, Insurance Authority

Range of Disciplinary Orders against Subsidiary Intermediaries imposed by the MPFA in Some Cases involving Common Misconduct

Important Note

Below is a brief summary of some cases involving common misconduct with the key misconduct concerned and the disciplinary order imposed. Please note that the MPFA’s determination in an individual case on whether or not to make a disciplinary order and any disciplinary order (including the level of any sanction or penalty) to be imposed is subject to the particular facts and circumstances of each case. Any past disciplinary determination of the MPFA should not be construed as a binding precedent for any future case.

	Disciplinary Order	Date	Key Misconduct			
			Unauthorized Transfer of Client’s MPF benefits ¹ (number of transfer involved)	Impersonation ²	Provision to Client of Inaccurate Information and Marketing Materials Not Approved by PI ³	Making a False or Misleading Statement to the MPFA ⁴
1.	40-month suspension	15 March 2021	✓ (1 count) <i>(also involved 5 counts of forging client signature)</i>	✓		
2.	30-month disqualification	17 May 2018	✓ (2 counts) <i>(also involved 3 counts of forging client signature)</i>			

¹ In breach of section 34ZL(1)(a) of the MPFSO

² In breach of section 34ZL(1)(a) of the MPFSO

³ In breach of section 34ZL(1)(e) of the MPFSO and paragraph III.31 of the Conduct Guidelines

⁴ In breach of section 43E(1) of the MPFSO

	Disciplinary Order	Date	Key Misconduct			
			Unauthorized Transfer of Client's MPF benefits ¹ (number of transfer involved)	Impersonation ²	Provision to Client of Inaccurate Information and Marketing Materials Not Approved by PI ³	Making a False or Misleading Statement to the MPFA ⁴
3.	20-month disqualification	17 May 2018	✓ (1 count) <i>(also involved 1 count of forging client signature)</i>			
4.	20-month suspension	24 June 2021	✓ (1 count) <i>(also involved 1 count of forging client signature)</i>			
5.	15-month suspension	7 September 2020	✓ (2 counts)			
6.	10-month disqualification	11 February 2020	✓ (2 counts)	✓		
7.	6-month suspension	27 March 2018		✓		
8.	6-month suspension	10 January 2019		✓		
9.	3-month suspension	1 March 2019			✓	
10.	2-month suspension	11 August 2016				✓
11.	Public reprimand	1 March 2019			✓	