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

電話號碼 Tel No : 2292 1267
傳真號碼 Fax No :
電郵地址 Email :
本局檔號 Our Ref :
來函檔號 Your Ref :

By Electronic System

3 February 2023

Circular Letter: SU/CCO/2023/001

To: All Registered Intermediaries

Dear Sirs,

Further Guidance Concerning Findings of Mystery Shopping Programme on Selling Practices in Respect of Tax-deductible Voluntary Contributions

On 23 December 2022, the Insurance Authority, the Hong Kong Monetary Authority and the Mandatory Provident Fund Schemes Authority (MPFA) jointly issued a circular regarding the findings of mystery shopping programme (MSP) on selling practices in respect of Qualifying Deferred Annuity Policies (QDAP) and Tax-deductible Voluntary Contributions (TVC) in Hong Kong. Following the issuance of the joint circular, the MPFA would like to provide guidance to the principal intermediaries (PIs) and subsidiary intermediaries (SIs) relating to the sales and marketing of TVC.

2. As SIs are in the frontline serving clients directly, they should observe the conduct requirements as stated under section 34ZL of the Mandatory Provident Fund Schemes Ordinance and the Guidelines on Conduct Requirements for Registered Intermediaries (Conduct Guidelines) when conducting regulated activities. Having the responsibility of supervising SIs, PIs should take into account the findings of MSP to strengthen the supervision of their SIs and comprehensively review their procedures and internal controls, in particular, the sales process of TVC, training for SIs and compliance checking, so as to ensure compliance with relevant legal and regulatory

香港葵涌葵昌路 51 號九龍貿易中心 1 座 8 樓
Level 8, Tower 1, Kowloon Commerce Centre, 51 Kwai Cheong Road, Kwai Chung, Hong Kong
www.mpfa.org.hk

requirements, especially adherence to the principles of treating clients fairly and acting in clients' best interests.

3. Based on the MSP findings, there is room for improvement in the following areas relating to the conduct requirements under the Conduct Guidelines:

- know-your-client (KYC) procedures;
- explanation of product features and disclosure of risks; and
- disclosure of information about monetary and non-monetary benefits receivable by PIs/SIs.

4. In addition, it was observed that some SIs introduced or recommended QDAP to the clients and discouraged them from opening TVC accounts without understanding their circumstances.

(A) KYC Procedures *(paragraphs III.18 and III.24 of the Conduct Guidelines)*

5. Findings of the MSP revealed that only a few SIs checked the clients' identity documents (e.g. identity card) to verify the clients' identity and most SIs did not take reasonable steps to check whether the clients were vulnerable clients[1] during the selling process. Without acquiring a basic understanding of clients, the SIs cannot identify clients with special needs where the SIs should exercise extra care and provide additional support during the sales process relating to the making of a key decision, such as by offering the vulnerable clients the opportunity to be accompanied by a companion or an additional staff member to witness the sales process.

6. In light of this, SIs are recommended to take all reasonable steps to establish the identities of clients by checking the clients' identity documents and obtaining essential information from the clients so as to identify vulnerable clients with whom extra care should be provided where necessary. PIs are required to provide a compliance checklist to their SIs to ensure the SIs' compliance with these requirements.

(B) Explanation of Product Features and Disclosure of Risks

7. In order to facilitate clients to make informed decisions, the SIs should properly disclose and explain to clients the key features and risks of TVC. The MSP findings revealed that there is room for improvement in the sufficiency of product

[1] Vulnerable clients are the persons who are not, or may not be, able to fully understand the type of information to be provided and discussed or who are not, or may not be, able to make a key decision. Such customers may include, for example, those who are illiterate, with low level (primary level or below) of education, visually or otherwise impaired in a manner that affects their ability to make the relevant key decision independently.

explanation and risk disclosure provided by the SIs. We take this opportunity to reiterate to all PIs and SIs some salient points when dealing with clients in relation to TVC.

Explanation of TVC Features *(paragraphs III.12 to III.14 and III.38 of the Conduct Guidelines)*

8. During the MSP, it was observed that most SIs did not explain adequately the key features of TVC or disclose relevant risks to the clients. PIs should put in place procedures and controls to ensure that their SIs explain adequately the key features of TVC and disclose relevant risks to the clients. In the sales and marketing of TVC, the SIs should explain the key features of TVC to the clients, including but not limited to the following:

(a) the maximum tax-deductible limit for each assessment year is $60,000, which is an aggregate limit for both TVC and QDAP premiums;

(b) if the client has made TVC and paid premiums for QDAP in the same year of assessment, tax deduction will be applied to the TVC first. Any remaining amount will then be used for tax deduction on QDAP premiums;

(c) there is no commitment for the client to make TVC in future years. The client can make TVC in any amount at any time he/she wants according to his/her needs;

(d) the client can select different constituent funds (CFs) for the TVC account(s) and he/she can also change the investment mandate at any time;

(e) the MPF benefits in a TVC account can be transferred to another TVC account under a different MPF scheme at any time; and

(f) the withdrawal arrangements of TVC are the same as MPF mandatory contributions, which can be withdrawn when scheme member reaches the age of 65 (except for statutory grounds for early withdrawals).

Explanation of the Default Investment Strategy (DIS) *(paragraph III.39 of the Conduct Guidelines)*

9. When inviting clients to join or transfer to an MPF scheme, the clients should be informed that if no CF is selected, the contribution will be invested under the DIS of the MPF scheme. However, it was noted in the MSP that most SIs did not adequately inform the clients about the DIS arrangement of the MPF scheme and they also did not explain adequately to the clients the key features of the DIS.

10. PIs should put in place procedures and controls to ensure that their SIs adequately and clearly explain the DIS arrangement and features to the clients, such as

the DIS consists of two CFs, the automatic de-risking mechanism, fee controls and global investment for risk diversification.

Information about Transfer out of Guaranteed Funds *(paragraphs III.48 to III.49 of the Conduct Guidelines)*

11. In the MSP, for the samples where the clients requested transfer of TVC to another TVC account under a different MPF scheme, the SIs did not check with the clients whether the transfer would result in a transfer out of MPF benefits from a guaranteed fund of the original scheme. The SIs also did not advise the clients to check the offering documents of the original schemes or consult the MPF trustees for details.

12. When inviting, inducing or advising clients on transfer out of MPF benefits, the SIs should enquire if the clients have any existing investment in a guaranteed fund. If the transfer would result in a transfer out of MPF benefits from a guaranteed fund, the SIs should:

(a) warn the clients that a transfer of the MPF benefits out of that guaranteed fund may cause some or all of the guarantee conditions not being satisfied, thus resulting in the loss of the guarantee. The SIs should advise the clients to check the offering document of their original scheme or consult their MPF trustees for details before transferring out of MPF benefits from the guaranteed fund;

(b) document the warning and advice given mentioned above and ask the clients to sign the document to acknowledge the content of the document. A copy of the document should be given to the clients and the original should be kept by the PIs for a minimum period of seven years.

13. PIs should keep proper records and documentation for the warning and advice given to the clients. Such records and documentary evidence should be readily accessible by the frontline regulators for supervisory and inspection purposes.

Disclosure of Risks Relating to Investment Performance *(paragraph III.40 of the Conduct Guidelines)*

14. MPFA noted in the MSP that some SIs recommended the CFs to the clients primarily based on past investment performance of the CFs. If the SIs discuss past performance with the clients, the SIs should explain to the clients that investment involves risks and that past performance is not necessarily a reliable indicator of future performance.

15. SIs should be mindful of not advising the clients to select a CF primarily based on past investment performance and to remind the clients that they should also consider various factors, such as the fund's investment objective, fees and charges, fund risk level and service level. The SIs are encouraged to make good use of the MPF Fund Platform available on the MPFA website to provide to the clients an overview of the information about different CFs offered by different MPF schemes. The PIs should provide sufficient guidance and training to SIs to ensure that their SIs have adequate knowledge to advise the clients on selection of CFs.

(C) Disclosure of Monetary and Non-Monetary Benefits Receivable by PIs/SIs *(paragraphs III.36 and III.53 of the Conduct Guidelines)*

16. The MPFA considers that a conflict of interests between the PIs/SIs and the clients may exist where the PIs/SIs receive benefits (monetary or non-monetary) when carrying on regulated activities. It was observed from the MSP that most SIs did not disclose to the clients the information of monetary and non-monetary benefits receivable during the selling process. The monetary and non-monetary benefits receivable by PIs/SIs is an important piece of information to the clients and such information should be disclosed. Without disclosing such information to the clients, the clients may not have sufficient information to facilitate them to make informed decisions.

17. Currently, the SIs should provide the clients with a statement to disclose the nature of monetary and non-monetary benefits receivable by them. The PIs and SIs are reminded that such statement should be given to the clients at the time of the invitation, inducement or advice.

(D) Opening of TVC Accounts *(paragraphs III.24 and III.31 of the Conduct Guidelines)*

18. In the MSP, it was observed that when the clients indicated to the SIs that they were interested in tax-deductible products, the SIs did not take reasonable steps to understand the circumstances of the clients and did not provide adequate or accurate information about TVC for the clients to make informed decisions.

19. If the clients would like to understand more about the tax-deductible products, the SIs should explain the tax-deductible products to the clients in an accurate, fair and balanced manner. The SIs should take reasonable steps to understand the circumstances of clients to ensure that the product introduced or recommended is

appropriate for the clients' circumstances. In addition, if the benefits receivable for the tax-deductible products are different, the SIs should disclose such information to the clients. The PIs should provide the SIs with adequate reference materials to facilitate the SIs to compare the relative benefits and drawbacks of different tax-deductible products.

20. In view of the MSP findings, the MPFA will follow up with the PIs concerned and require them to take actions to address the issues noted as appropriate.

21. SIs should contact their PIs for any enquiries about this letter and PIs may contact Mr Peter Lee, Manager / Supervision Division, on 2292 1267 if further assistance is required.

Yours sincerely,

Katharine Fan
Senior Manager
Supervision Division

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