



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

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22 December 2023

**Circular Letter: SU/CCO/2023/006**

**To: All Registered Intermediaries**

Dear Sir/Madam,

**Handling of Applications for Early Withdrawal of Accrued Benefits on Grounds  
of Permanent Departure from Hong Kong**

The Mandatory Provident Fund Schemes Authority (MPFA) is gravely concerned about recent news reports that a subsidiary intermediary (SI) might have induced or assisted scheme members in making false claims for early withdrawal of their MPF accrued benefits on the grounds of permanent departure from Hong Kong (PD Claims) with the use of falsified documents.

This circular serves to remind registered intermediaries (RIs) to fully comply with the conduct requirements under the Mandatory Provident Fund Schemes Ordinance (MPFSO) and Guidelines on Conduct Requirements for Registered Intermediaries (Conduct Guidelines)<sup>1</sup> as well as any other applicable laws and regulations.

**SI's must not engage in any criminal activity**

<sup>1</sup> The paragraph numbers of the Conduct Guidelines cited in the present Circular will change when the revised Conduct Guidelines (i.e. version 2) takes effect from 1 March 2024 (please refer to the [Circular Letter SU/CCO/2023/005 dated 3 October 2023](#))

It is a criminal offence to make a false or misleading statement to the MPFA or a Mandatory Provident Fund (MPF) trustee<sup>2</sup>. Any person who aids and abets scheme members to make a false PD Claim is also liable to criminal prosecution.

The MPFA would not tolerate any criminal acts by RIs and would work with relevant law enforcement agencies to combat such crimes.

Furthermore, RIs must act honestly, fairly, in the best interests of the client, and with integrity<sup>3</sup>. Any SI involved in such crimes is also in breach of the conduct requirements, and subject to disciplinary sanctions, including revocation of and disqualification from registration as RIs.

### **Standards of conduct expected of RIs when handling PD Claims**

RIs are reminded of the standards of conduct expected of them when advising or assisting clients in making PD Claims.

#### *(a) Exercising a level of care, skill and diligence*

Section 34ZL(1)(b) of the MPFSO requires RIs to exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on a regulated activity. Paragraphs III.12 and III.14(e) of the Conduct Guidelines further require RIs to understand the MPF System and general scheme operational issues such as those relating to transfers and withdrawals.

When advising or assisting clients in making PD Claims, RIs should advise scheme members about the relevant statutory requirements for making PD Claims and the proper procedures in making such claims.

#### *(b) Having regard to a client's particular circumstances*

Section 34ZL(1)(d) of the MPFSO requires RIs to have such regard to their client's particular circumstances as is necessary for ensuring that the regulated activity is appropriate to the client. Paragraph III.26(a) of the Conduct Guidelines further requires that, when a decision by a client on early withdrawal of accrued benefits from the MPF System is involved, RIs should have regard to the extent to which such decision might have materially adverse consequences for that client. RIs should acquire understanding of the client, such as the client's background and reasons for making the PD Claim, to assess whether such claim might have any adverse

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<sup>2</sup> Section 43E of the MPFSO stipulates that a person who, in any document given to a prescribed person in connection with the MPFSO, makes a statement that the person knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect, commits an offence. In addition, section 36 of the Crimes Ordinance (Cap. 200) stipulates that any person who knowingly and wilfully makes (otherwise than on oath) a statement false in material particular in a statutory declaration, shall be guilty of an offence.

<sup>3</sup> Section 34ZL(1)(a) of the MPFSO stipulates that when carrying on a regulated activity, a principal intermediary or a subsidiary intermediary attached to a principal intermediary must act honestly, fairly, in the best interests of the client, and with integrity.

consequences for the client, such as possible criminal liability for making false or misleading statements and/or using falsified documents.

*(c) Principal intermediaries (PIs) to have proper controls and procedures in place*

Section 34ZL(3) of the MPFSO requires that PIs must establish and maintain proper controls and procedures for securing compliance by themselves and their SIs. Paragraphs III.59(a) and III.60(s) of the Conduct Guidelines further require PIs to have in place a rigorous framework that can identify those matters that require compliance by themselves and their SIs as well as arrangements, procedures and controls to identify any failure of themselves or their SIs to comply with the provisions in the MPFSO or relevant legislation and regulations. They are required to report such failure to the frontline regulator within 14 working days of the PI identifying the failure. For any complaints of a criminal nature (such as misappropriation of client funds or forgery of client documents) or other serious nature, PIs should also inform the frontline regulator immediately as required by paragraph III.61(e) of the Conduct Guidelines.

To this end, PIs should regularly review and ensure they have relevant procedures and controls in place to identify any failure of themselves or their SIs to comply with the MPFSO and relevant legislation and regulations when advising or assisting clients in making PD Claims.

All RIs should be mindful in the event that any suspicious PD Claims come to their attention, they should remind scheme members that it is a criminal offence to make a false or misleading statement to the MPFA or MPF trustees and the RIs should also report such cases to the MPFA and/or the relevant law enforcement agency such as the Police.

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

Yours sincerely,



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