

STATEMENT OF DISCIPLINARY ACTION

The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) has suspended the registration of KWAN Yin-ha (**KWAN**) as a Mandatory Provident Fund (**MPF**) intermediary, a subsidiary intermediary formerly attached to Sun Life Hong Kong Limited (**Sun Life**), for 20 months from 24 June 2021 to 23 February 2023.
2. The MPFA found that:
 - (a) KWAN transferred a scheme member's MPF accrued benefits from one MPF scheme to another MPF scheme (**Subject Transfer**) without the scheme member's authorization and knowledge; and
 - (b) in order to effect the Subject Transfer, KWAN misused the scheme member's personal information, forged the scheme member's signature by copying the scheme member's signature from a previously signed form for another purpose and pasting it on the necessary transfer form.
3. KWAN's conduct was in breach of the conduct requirements under sections 34ZL(1)(a) and (b) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**), and paragraphs III.9 and III.20 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**) as well as Sun Life's internal policy/guideline.

Summary of case

4. KWAN was a subsidiary intermediary attached to Sun Life from 14 September 2000 to 26 March 2019. Subsequently, KWAN has been attached to Manulife (International) Limited since 15 May 2020. The scheme member became a client of KWAN in year 2016 to 2017.
5. In around November or December 2018, KWAN texted around 30 clients, including the scheme member, by WhatsApp inviting them to transfer their MPF accrued benefits from other MPF providers to Sun Life. The scheme member ignored the message after receiving it.
6. According to KWAN's explanation, she had mistakenly treated the scheme member as another client who agreed to transfer MPF accrued benefits to Sun Life and requested KWAN to use copies of her previously signed forms to conduct the transfer. As such, KWAN thought that she had obtained the scheme member's agreement to effect the Subject Transfer. KWAN then effected the Subject Transfer in December 2018 without the scheme member's knowledge and authorization, by copying and pasting her signature which was previously appended on another form for another purpose on the transfer form.
7. However, KWAN did not contact the other client again after submitting the necessary form for the Subject Transfer. KWAN also failed to disclose the identity

of that another client or provide any communication history with that another client to support her explanation.

8. The scheme member only realised the Subject Transfer upon receipt of a notification from her MPF trustee.
9. In the course of investigation, KWAN admitted that:
 - (a) she had, via the WhatsApp message, taken the initiative to invite or induce the scheme member to conduct the Subject Transfer;
 - (b) the scheme member did not authorize KWAN to conduct the Subject Transfer or use the copy of the scheme member's previously signed forms;
 - (c) she copied the scheme member's signature previously appended on another form and pasted it on the relevant transfer form to effect the Subject Transfer; and
 - (d) she had violated Sun Life's internal guidelines regarding the conduct requirements for MPF subsidiary intermediaries.

Breaches and reasons for action

10. Section 34ZL(1)(a) of the MPFSO states 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.
11. Section 34ZL(1)(b) of the MPFSO states that, when carrying on a regulated activity, a principal intermediary or a subsidiary intermediary attached to a principal intermediary must exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity.
12. Paragraph III.9 of the Conduct Guidelines states that a registered intermediary should treat all information supplied by a client as confidential, must not disclose or use such information except as permitted at law, and avoid any misuse of the personal information obtained in the course of its business activities.
13. Paragraph III.20 of the Conduct Guidelines states that a registered intermediary should comply with the controls, procedures and standards of conduct as required by his principal intermediary.
14. Having considered all the circumstances of the case, the MPFA is of the view that when carrying on a regulated activity, KWAN had failed to (i) act honestly, fairly, in the best interests of the client, and with integrity; and (ii) exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity by:
 - (a) transferring the scheme member's MPF accrued benefits from one MPF scheme to another MPF scheme without the scheme member's authorization and knowledge; and

- (b) misusing the scheme member's personal information, forging the scheme member's signature and/ or falsifying document by copying the scheme member's signature from her previously signed form for another purpose and pasting the copy on a new transfer form to effect the Subject Transfer without the scheme member's authorization and knowledge.
15. In doing so, KWAN not only breached the regulatory requirements under the MPFSO and the Conduct Guidelines, she also failed to comply with the Sun Life's internal policy/ guideline.

Conclusion

16. The MPFA's view is that KWAN's conduct has breached the conduct requirements under sections 34ZL(1)(a) and (b) of the MPFSO, and paragraphs III.9 and III.20 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against KWAN.
17. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of KWAN's breaches and that she has no previous disciplinary record with the MPFA.