

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) reprimands and disqualifies MA Chun Wai (**MA**) from being registered as a Mandatory Provident Fund (**MPF**) intermediary for 20 months from 17 November 2023 to 16 July 2025.
2. The MPFA found that:
 - (a) MA failed to execute an employer's instructions for account opening and enrolments of six employees and alert the employer within a reasonable time when there was a delay or failure to execute the instructions;
 - (b) MA failed to forward two cheques issued by the employer for making MPF contributions for its six employees to an MPF trustee;
 - (c) MA failed to ensure two cheques issued by the employer were made payable to the MPF trustee; and
 - (d) MA failed to provide copies of the signed MPF forms to the employer and its employees as soon as reasonably practicable.
3. MA's conduct was in breach of the conduct requirements under sections 34ZL(1)(a), (1)(b) and (1)(g) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**) and paragraphs III.3, III.17, III.54 and III.56 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**).

Summary of facts

4. MA was a subsidiary intermediary attached to Sun Life Hong Kong Limited (**Sun Life**) from 27 February 2019 to 17 August 2020.
5. The employer is a company which commenced business in July 2019. In early November 2019, MA was engaged by the employer to make an application for joining the Sun Life Rainbow MPF Scheme (**Sun Life Scheme**). On 22 November 2019, MA visited the employer's office for handling its account opening and assisting its four employees to enrol into the Sun Life Scheme. Subsequent to the initial visit, MA visited the employer's office twice in February 2020 to collect two cheques for contribution payments and to assist in member enrolments for the other two employees (i.e. a total of six employees were to be enrolled). Despite a number of subsequent communications or contacts between MA and the employer, MA still had not processed the instructions from the employer. In April 2020, the employer discovered that its MPF employer account had still not been opened.
6. MA admitted that he failed to submit the MPF forms signed by the employer for its account opening and enrolments of its six employees to Sun Life nor forward the two cheques to the Sun Life Trustee Company Limited (**Sun Life Trustee**). As such, a breach of the relevant conduct requirements is established. MA claimed that it was due to forgetfulness on his part. That said, the MPFA noted that there

were a number of communications or contacts between MA and the employer from December 2019 to March 2020, which should have prompted MA to execute the employer's instructions. As such, the MPFA considers that the reason for MA's breach is not due to forgetfulness.

7. MA failed to properly advise the employer about the correct name of payee upon the employer's enquiry and failed to ensure the cheques issued by the employer were made payable to the Sun Life Trustee. MA also admitted that he had failed to provide the employer and its employees with copies of the signed MPF forms.

Breaches and reasons for action

8. Section 34ZL(1)(a) of the MPFSO states that, when carrying on a regulated activity, a principal intermediary¹ or a subsidiary intermediary² attached to a principal intermediary must act honestly, fairly, in the best interests of the client, and with integrity.
9. 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.
10. Section 34ZL(1)(g) of the MPFSO states that, when carrying on a regulated activity, a principal intermediary or a subsidiary intermediary attached to a principal intermediary must ensure that client assets are promptly and properly accounted for.
11. Paragraph III.3 of the Conduct Guidelines states that a registered intermediary should ensure that any form to be signed by a client is duly completed in all material respects before asking the client to sign on it. Any alterations to the completed form must be initialed by the client or, where it is not practical to do so, otherwise authenticated as representing the client's instruction. A copy of the form should be provided to the client as soon as reasonably practicable and another copy should be kept by the principal intermediary for a minimum period of seven years.
12. Paragraph III.17 of the Conduct Guidelines states that a registered intermediary should take all reasonable steps to carry out a client's instructions promptly and accurately, notify the client after the instructions have been carried out and alert the client within a reasonable time in case of any delay or failure to execute the client's instructions by the registered intermediary.
13. Paragraph III.54 of the Conduct Guidelines states that a registered intermediary is generally not expected to handle client assets. In the event that a registered

¹ A principal intermediary is a business entity registered by the MPFA to engage in conducting MPF sales and marketing activities and giving regulated advice.

² A subsidiary intermediary is a person registered by the MPFA to carry out MPF sales and marketing activities and to give regulated advice on behalf of a principal intermediary to which the person is attached.

intermediary is asked by its client to forward a cheque payment to the approved trustee of a registered scheme, it should do so promptly.

14. Paragraph III.56 of the Conduct Guidelines states that a registered intermediary must not receive cash payments and must ensure that all cheques received are crossed and made payable to the approved trustee of the registered scheme or to the registered scheme only.
15. Having considered all the circumstances of the case, the MPFA is of the view that MA when carrying on a regulated activity, MA had failed to (i) act honestly, fairly, in the best interests of the clients and with integrity; (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; and (iii) ensure client assets are promptly and properly accounted for by failing to:
 - (a) execute the employer's instructions for account opening and enrolments of six employees and alert the employer when there was delay in executing the instructions;
 - (b) forward two cheques issued by the employer for making MPF contributions for its employees to an MPF trustee;
 - (c) ensure the two cheques were made payable to the MPF trustee; and
 - (d) provide copies of the relevant MPF forms to the employer and its employees.

Conclusion

16. The MPFA's view is that MA's conduct has breached the conduct requirements under sections 34ZL(1)(a), (1)(b) and (1)(g) of the MPFSO and paragraphs III.3, III.17, III.54 and III.56 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against MA.
17. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of MA's breach and that he has no previous disciplinary record with the MPFA.