

STATEMENT OF DISCIPLINARY ACTION

The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) has disqualified [X] from being registered as a Mandatory Provident Fund (**MPF**) intermediary for 10 months from 11 February 2020 to 10 December 2020.
2. The MPFA found that [X]:
 - (a) without the proper authorization of a scheme member (**Scheme Member**), effected transfers of the Scheme Member's MPF accrued benefits from two MPF schemes to another MPF scheme (**Subject Transfers**);
 - (b) disclosed the Scheme Member's personal information to a third party and arranged such third party to impersonate the Scheme Member in calling two MPF trustees to obtain the account information of the Scheme Member, for the purpose of effecting the Subject Transfers; and
 - (c) failed to ensure that seven forms were duly completed before asking the Scheme Member to sign on the forms.
3. [X]'s conduct was in breach of the conduct requirements under sections 34ZL(1)(a) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**), and paragraphs III.3, III.8 and III.9 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**).

Summary of facts

4. [X] was a subsidiary intermediary attached to [Y (a principal intermediary)] from 25 January 2017 to 2 July 2019. [X] was de-registered as a MPF intermediary on 10 October 2019.
5. In February 2018, the Scheme Member approached [Y] and enquired about consolidating her MPF benefits. [X] was assigned by [Y] to follow up the matter and later met the Scheme Member on 1 March 2018.
6. At the meeting, [X] asked the Scheme Member about her existing MPF accounts and explained to the Scheme Member information about the MPF scheme of Sun Life and its fund performance. [X] also invited the Scheme Member to transfer her MPF accrued benefits to the MPF scheme of Sun Life before a designated date in order to be eligible for a promotional offer.
7. Upon [X]'s request, the Scheme Member signed several forms for the Subject Transfers during a meeting. The Scheme Member's MPF account numbers were however not filled in as such information was not available at the time. After the meeting, the Scheme Member decided not to provide [X] with such information and considered that any MPF transfers would be suspended until she had provided such information. The Scheme Member confirmed that she had never instructed [X] to effect the Subject Transfers. Nevertheless, the Subject Transfers were

completed on 29 March 2018 and 4 April 2018 without the Scheme Member's knowledge.

8. In the course of investigation, [X] admitted that:
 - (a) the Scheme Member did not authorize him to effect the Subject Transfers but [X] still did so hoping that the Scheme Member could enjoy a promotional offer in time;
 - (b) for the purpose of obtaining the MPF account information of the Scheme Member to complete the Subject Transfers, [X] arranged his friend of the same gender as the Scheme Member to impersonate the Scheme Member and call two MPF trustees on 2 March 2018 without the latter's knowledge or consent; and
 - (c) the signing date on seven MPF forms and some other information such as the Scheme Member's account numbers on three of the forms were not filled in when the Scheme Member signed on them at the meeting.

Breaches and reasons for action

9. 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.
10. 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.
11. Paragraph III.8 of the Conduct Guidelines states that a registered intermediary should act in the best interests of the client in conducting sales and marketing activities and in giving regulated advice in relation to registered schemes/constituent funds.
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. Having considered all the circumstances including [X]'s admissions, the MPFA is of the view that [X] had failed to act honestly, fairly, in the best interests of the client, and with integrity when conducting regulated activities by effecting transfers of the Scheme Member's MPF benefits without proper authorization; and for the purpose and in the course of effecting the transfers, [X] had without the Scheme Member's knowledge and consent provided the Scheme Member's personal information to a third party (who is of the same gender as the Scheme Member) and arranged the third party to impersonate the Scheme Member in calling two MPF trustees to obtain her relevant account information. [X] also failed to ensure that any form to be signed by the Scheme Member was duly completed in all material respects before asking the Scheme Member to sign on it.

Conclusion

14. The MPFA's view is that [X]'s conduct has breached the conduct requirements under sections 34ZL(1)(a) of the MPFSO, and paragraphs III.3, III.8 and III.9 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against [X].
15. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of [X]'s breaches, his frank admissions and that he has no previous disciplinary record with the MPFA.