



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

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**By Email**

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Circular Letter: SU/CCI/2019/003

To: All Principal Intermediaries

Dear Responsible Officers,

**Principal Intermediaries (PIs) to Strengthen Internal Controls**

The Mandatory Provident Fund Schemes Authority (MPFA) would like to remind PIs about the importance of establishing and maintaining proper controls and procedures for securing compliance by themselves and their subsidiary intermediaries (SIs) with the conduct requirements under section 34ZL(3) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPFSO) and the Guidelines on Conduct Requirements for Registered Intermediaries (Conduct Guidelines). In particular, there are some areas of concerns that PIs should pay attention to as follows.

**1. Importance of compliance with Conduct Guidelines**

The Conduct Guidelines provide guidance in respect of the minimum standards of conduct for registered intermediaries (RIs) and the circumstances in which the MPFA will consider whether a RI has, or has not, complied with the conduct requirements. The Conduct Guidelines are not intended to be exhaustive and acts or omissions not mentioned therein may also constitute a breach of the conduct requirements.

The MPFA considers that any breach of any provision under the Conduct Guidelines carries significant weight in determining whether there is any breach of the conduct requirements which may result in the imposition of a disciplinary order. Hence, PIs should duly comply with the Conduct Guidelines and ensure that their internal controls and procedures for securing compliance by themselves and their SIs meet the standard and requirements thereunder.

## **2. Suitability assessment and risk mismatch**

A RI should have regard to a client's particular circumstances by conducting suitability assessment in extending an invitation / inducement or providing regulated advice to a client concerning the choice of a particular constituent fund (paragraph III.25 of the Conduct Guidelines). When conducting such suitability assessment, the RI should match the client's risk profile with the risk level of the constituent funds to select the constituent fund(s) suitable for the client (paragraph III.27(b) of the Conduct Guidelines). The MPFA reminds that, in identifying if there is a risk mismatch, a case is considered as a risk mismatch case once any *one* of the constituent funds selected by a client is of a risk level higher than the client's risk profile as assessed by the RI. Once there is a risk mismatch, the RI shall follow the procedures set out in paragraph III.29(a) to (f) and III.30 of the Conduct Guidelines.

## **3. Unauthorized transfer of MPF benefits, impersonation and forged signature**

The MPFA has great concerns about the recurring complaints against SIs alleging transfers of scheme members' MPF benefits from one MPF scheme to another without the prior authorization or even knowledge of the member. To effect the transfer, some SIs impersonated scheme members when calling the relevant MPF trustees to obtain the members' MPF account information and some SIs even falsified the relevant MPF transfer forms or forged the members' signatures. The MPFA has given reminders to the industry in this regard by Circulars dated 26 March and 18 December 2018.

Section 34ZL(1)(a) of the MPFSO requires RIs to act honestly, fairly, in the best interests of the client, and with integrity, when carrying on a regulated activity. The MPFA considers that handling scheme members' MPF benefits without authorization, impersonating members, falsifying documents and forging members' signatures are very serious and dishonest acts and will not be tolerated. Apart from disciplinary action, the MPFA will refer any suspected criminal acts to the relevant enforcement agencies such as the Police where appropriate.

The MPFA requires the PIs to strengthen the internal controls and procedures in order to detect and prevent all such dishonest acts. As good practice, PIs shall send SMS alerts to the relevant member upon receiving an application for transfer of MPF benefits and, in case of suspicion, contact the member to confirm the instruction before proceeding with the application. These examples of measures are not exhaustive and PIs should implement effective controls and procedures taking into account their operations and needs.

#### **4. SI's engaged personal assistant who is not RI**

The MPFA notes that some PIs allow personal assistants privately engaged by their SIs to follow up MPF matters of scheme members for the SIs. Such personal assistants may not have any contractual relationship with the PIs.

The MPFA has serious concerns over such arrangements as it may pose risk of leakage of client information (paragraph III.9 of the Conduct Guidelines) and risk of such personal assistants who are not RIs conducting regulated activities (paragraph III.60(c) of the Conduct Guidelines).

PIs are required to have in place effective arrangements, procedures and controls to ensure that only RIs will conduct regulated activities on behalf of the PIs and all client information is treated in a confidential manner.

#### **5. Use of advertising and marketing materials by SIs**

PIs are required to ensure that any advertisement or marketing materials issued by them or their SIs do not contain information that is false, misleading or deceptive, and any information relating to registered schemes and constituent funds is clear, fair and timely, presents a balanced picture of the registered schemes or constituent funds with adequate risk disclosure (paragraph III.4 of the Conduct Guidelines). Further, only marketing materials with PIs' approval shall be used by SIs (paragraph III.5 of the Conduct Guidelines).

The MPFA however notes that in some cases, SIs used and distributed to scheme members marketing materials which had not been approved by their PIs. Those unapproved marketing materials contained inaccurate or misleading information on which scheme members had relied (for example, amount of bonus rebates) before deciding to join an MPF scheme or transfer their MPF benefits from one MPF scheme to another.

PIs are reminded to have controls in place to ensure that their SIs only use marketing materials that have already been approved by the PIs. PIs should also provide sufficient training to their SIs to facilitate their understanding about the marketing materials and the prohibition of using any unauthorized materials.

## **6. Roadshow marketing activities**

The MPFA is concerned about a number of complaints against various improper acts of SIs accrued from roadshow marketing activities including:

- (a) provision of inaccurate or misleading information to scheme members;
- (b) asking the members to sign on various forms without clear explanation about the nature and purpose of the forms;
- (c) asking the members to sign on blank or incomplete forms;
- (d) misuse of personal information;
- (e) unauthorized transfers of MPF benefits of the members; and
- (f) failing to provide copies of the signed forms to the members.

In some cases, there appears to be insufficient audit trail of the roadshow activities such as the roster of participating SIs and staff, the scheme members who have been successfully approached, transactions completed by each participating SI, the number of forms signed by scheme members etc. In some instances, the roadshow activities have not been approved by the relevant PIs.

Hence, PIs should step up measures in controlling and managing roadshow activities. Examples of good practice include:

- (a) ensure that there is/are officer(s)-in-charge of every roadshow activity who will be responsible for overseeing the overall operation of the roadshow and ensuring compliance with the conduct requirements over different aspects of the activity;
- (b) maintain proper audit trail of what marketing activities have been conducted by the participating SIs and other staff;
- (c) perform post-activity checking and review in order to detect and deter any wrongdoing;
- (d) allow only experienced RIs with sufficient MPF knowledge to deal with the members of the public in the roadshow activities; and
- (e) provide sufficient training to the participating SIs and staff involved in the activity.

The MPFA would like to emphasize the importance of establishing and maintaining proper controls and procedures by PIs for securing SIs' compliance with the conduct requirements under the MPFSO and the Conduct Guidelines. PIs should use their best endeavours to secure observance by their SIs of such controls and procedures. Internal

control failures of PIs may cause serious impact on the interests of scheme members and may give rise to disciplinary actions against the PIs and their responsible officers.

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

Yours sincerely,



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Supervision Division

- c.c. Mr Kevin Sham, Senior Manager, Banking Conduct Department, Hong Kong Monetary Authority  
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