

## STATEMENT OF DISCIPLINARY ACTION

### The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) has suspended the registration of Ching Shing-noi (**Ching**) as a Mandatory Provident Fund (**MPF**) intermediary for 15 months from 7 September 2020 to 6 December 2021.
2. The MPFA found that Ching:
  - (a) transferred the MPF accrued benefits of a scheme member from two MPF schemes to another MPF scheme without the scheme member's authorization and despite the scheme member's express instruction not to transfer her accrued benefits from one of the MPF schemes;
  - (b) failed to ensure that eight forms or documents were duly completed before asking the scheme member to sign on them and failed to provide copies of signed documents to the scheme member; and
  - (c) failed to provide and explain information to the scheme member about the MPF scheme to be joined.
3. Ching's conduct was in breach of the conduct requirements under sections 34ZL(1)(a), (d) and (e) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**), and paragraphs III.3, III.37 and III.38 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**).

### Summary of case

4. Ching has been a subsidiary intermediary attached to Convoy Financial Services Limited (**Convoy**) since 2 January 2007. The scheme member became a client of Ching in or around 2003.
5. At a meeting with Ching on 16 March 2018, and upon Ching's invitation to consolidate her MPF accounts, the scheme member expressed interest in transferring her MPF benefits out from a personal account under an MPF scheme ("**Personal Account**") but not those in her contribution account under another MPF scheme ("**Contribution Account**").
6. Ching asked and arranged the scheme member to sign eight MPF forms or documents during the meeting without providing any information about the new MPF trustee or scheme(s) to be joined. According to the scheme member, when she signed the forms, the forms were blank and she thought that Ching would later provide her with further information about the new MPF scheme(s) so that she could make a final decision as to which MPF scheme her MPF benefits would be transferred from the Personal Account.
7. Ching did not provide the scheme member with any copies of the signed MPF forms or documents.

8. The MPF forms or documents that the scheme member had signed were actually used for effecting two transfers of MPF benefits from both her Personal Account and Contribution Account to another MPF account, which the scheme member did not authorize.
9. After the meeting, Ching failed to provided information about the new MPF schemes to the scheme member but she submitted the MPF forms and documents to Convoy on 20 March 2018.
10. The two transfers were effected on 11 and 23 April 2018 respectively.
11. In the course of investigation, Ching admitted that:
  - (a) the date of signature on the MPF forms or documents was left blank when the scheme member signed at the meeting; and
  - (b) she had not provided the scheme member with any copies of the signed documents.

**Breaches and reasons for action**

12. 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.
13. Section 34ZL(1)(d) of the MPFSO states that, when carrying on a regulated activity, a principal intermediary or a subsidiary intermediary attached to a principal intermediary must have such regard to the client's particular circumstances as is necessary for ensuring that the regulated activity is appropriate to the client.
14. Section 34ZL(1)(e) of the MPFSO states that, when carrying on a regulated activity, a principal intermediary or a subsidiary intermediary attached to a principal intermediary must make such disclosure of information to the client as is necessary for the client to be sufficiently informed for the purpose of making any material decision.
15. 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, and provide the client with a copy of the form as soon as reasonably practicable.
16. Paragraph III.37 of the Conduct Guidelines states that a registered intermediary should provide to its client information materials that would assist the client in understanding the promoted registered scheme and constituent funds relevant to a material decision being made.
17. Paragraph III.38 of the Conduct Guidelines states that a registered intermediary should explain to the client the key features of the registered scheme, the constituent funds within the relevant registered scheme, and the special features of

any guaranteed funds, so as to enable the client to be sufficiently informed for the purpose of making material decisions.

18. Having considered all the circumstances of the case, the MPFA is of the view that Ching had failed to (i) act honestly, fairly, in the best interests of the client, and with integrity; (ii) have such regard to the client's particular circumstances as is necessary for ensuring that the regulated activity is appropriate to the client; and (iii) make such disclosure of information to the client as is necessary for the client to be sufficiently informed for the purpose of making any material decision, when conducting regulated activities by:
  - (a) transferring the MPF benefits of the scheme member from her Personal Account and Contribution Account to another MPF scheme without the scheme member's authorization and despite the scheme member's express instruction not to transfer her MPF benefits out from the Contribution Account;
  - (b) failed to ensure that eight forms or documents were duly completed before asking the scheme member to sign on them and failed to provide copies of signed documents to the scheme member; and
  - (c) failed to provide and explain information to the scheme member about the MPF scheme to be joined.

### **Conclusion**

19. The MPFA's view is that Ching's conduct has breached the conduct requirements under sections 34ZL(1)(a), (d) and (e) of the MPFSO, and paragraphs III.3, III.37 and III.38 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against Ching.
20. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of Ching's breaches and that she has no previous disciplinary record with the MPFA.