

STATEMENT OF DISCIPLINARY ACTION

The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) reprimands and disqualifies YEUNG Kai Tak Andy (**YEUNG**), the former Responsible Officer (**RO**) of MPF principal intermediary¹ The Hongkong and Shanghai Banking Corporation Limited (**PI**) from being approved as an officer with specified responsibilities² in relation to a principal intermediary for 30 months, pursuant to section 34ZW(4) of the Mandatory Provident Fund Schemes Ordinance, Cap. 485 (**MPFSO**).
2. The MPFA found that the PI had failed to comply with the conduct requirements³ by:
 - (a) offering referral fees to third parties (**Introducers**) who were not registered intermediaries for the purpose of encouraging clients to participate in, make contributions to and/or transfer any MPF to the PI's MPF scheme (**MPF Scheme**); and
 - (b) failing to have adequate controls and procedures for securing compliance by the PI and by each of its subsidiary intermediary⁴ with Part 4A of the MPFSO, including to ensure that only registered intermediaries are used in undertaking regulated activities on behalf of the PI.
3. These failures and misconduct were attributable to the neglect of YEUNG as an RO.

Summary of facts

A. Background

4. Between April 2020 and February 2021, the PI operated a referral programme (**Programme**) under which the PI recruited human resources agencies or recruiters (who were not registered intermediaries) as referral agencies (i.e. Introducers) to refer to it potential MPF corporate clients. The Introducers were offered referral fees from the PI if a referred client, the Introducers themselves and/or their associated companies participate in, make contributions to, and/or transfers MPF

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 Under section 34I(3) of the MPFSO, examples of specified responsibilities are ensuring that the principal intermediary has established and maintains proper controls and procedures for securing compliance by the principal intermediary and its subsidiary intermediaries with Part 4A of the MPFSO.

³ Please refer to the MPFA's [press release](#) dated 5 July 2024.

⁴ 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.

to the MPF scheme. Under the Programme, unregistered persons (i.e. the Introducers) were allowed to perform regulated activities⁵.

5. YEUNG, on behalf of the PI, signed agreements with five Introducers and received six successful referrals (i.e. with MPF contributions made and/or transfers of MPF completed) from three of the Introducers.

B. *Failure by YEUNG as an RO*

6. YEUNG was an RO of the PI from March 2020 and he was responsible for overseeing MPF business acquisitions, sales activities and after-sales services. He was also the Head of Pension Sales and Services of PI. Under the Programme, he made initial contacts with the management of the Introducers to introduce the Programme and participated in most of the meetings between the PI's Pensions Sales Team and the Introducers. He also signed the agreements with the Introducers on behalf of the PI.
7. YEUNG was involved in the decision to allow the Introducers to distribute the PI's marketing materials in relation to the MPF Scheme.
8. When overseeing the execution of the Programme, YEUNG failed to identify the risk of not complying with the relevant conduct requirements, in particular paragraph III.6 of the Guidelines on Conduct Requirements for Registered Intermediaries (version 1 – September 2012 as in force at the time of the failure) (**Conduct Guidelines**) which prohibits the offering of incentives to any person (unless an exception in paragraph III.7⁶ applies), and also the risk of having unregistered persons conducting regulated activities. YEUNG also failed to follow up with the comments from the compliance officer of the PI on the Programme.
9. The MPFA considers that the PI's failures were attributable to YEUNG's lack of compliance awareness and his failure in discharging his duty as the company's RO and using his best endeavours to ensure compliance with the conduct requirements by the PI, including his failure to ensure that the PI has established as well as maintains proper controls and procedures for securing compliance by it as a principal intermediary and its subsidiary intermediaries with the requirements of Part 4A of the MPFSO, in breach of section 34ZM of the MPFSO and paragraph III.62⁷ of the Conduct Guidelines.

Breaches and reasons for action

⁵ The MPFSO prohibits any person to carry on regulated activities unless such person is a registered intermediary.

⁶ Examples of the exceptions include a discount of fees and charges by way of bonus units, bonus credit or rebates credited to the MPF account of the recipient of the offer, and a commission or other monetary / non-monetary benefits paid to a registered intermediary for performing services as a registered intermediary.

⁷ The Conduct Guidelines have been revised subsequently and the relevant provision is paragraph III.63 in the current version 3 (June 2024).

10. Section 34ZM of the MPFSO provides that an RO of a principal intermediary must use his or her best endeavours to carry out specified responsibilities in relation to the principal intermediary.
11. Paragraph III.62⁶ of the Conduct Guidelines states that one of the specified responsibilities of an RO is to ensure that the principal intermediary has established as well as maintains proper controls and procedures for securing compliance by the principal intermediary and its subsidiary intermediaries with the requirements of Part IVA of the MPFSO.
12. The MPFA considers that the PI's failures and misconduct as set out in paragraph 2 above were attributable to the neglect of YEUNG as an RO.

Conclusion

13. In light of YEUNG's breaches of the conduct requirements under section 34ZM of the MPFSO and paragraph III.62⁶ of the Conduct Guidelines, the MPFA has decided to take the disciplinary action set out in paragraph 1 hereinabove against YEUNG.
14. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of the PI's non-compliance, the role YEUNG played and his degree of responsibility in relation to the launch of the Programme, and his otherwise clean disciplinary record with the MPFA.