

## STATEMENT OF DISCIPLINARY ACTION

### The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) reprimands and disqualifies CHAN Chiu Kam (**CHAN**) from being registered as a Mandatory Provident Fund (**MPF**) intermediary for 46 months from 10 December 2024 to 9 October 2028 (both dates inclusive).
2. The case was referred to the MPFA in November 2023 for follow-up action after an investigation by the Insurance Authority.
3. The MPFA found that CHAN (i) failed to promptly carry out the instructions of a scheme member (**Scheme Member**) to transfer his MPF from one MPF scheme to another (**Transfer**); (ii) misused the personal information of the Scheme Member to effectuate the Transfer; (iii) forged the signatures of the Scheme Member on three electronic forms (**e-Forms**) in relation to the Transfer; and (iv) forged the signature of the Scheme Member on three paper forms (**Paper Forms**) and submitted them to his MPF principal intermediary<sup>1</sup> Manulife (International) Limited (**Manulife**) during the latter's internal investigation of the matter.
4. CHAN's conduct was in breach of the conduct requirements under section 34ZL(1)(a) and 34ZL(1)(b) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**), and paragraphs III.9 and III.17 of the Guidelines on Conduct Requirements for Registered Intermediaries<sup>2</sup> (**Conduct Guidelines**).

### Summary of facts

5. CHAN was an MPF subsidiary intermediary<sup>3</sup> attached to Manulife between 9 June 2017 and 4 August 2022. He was later attached to FWD Life Insurance Company (Bermuda) Limited as a subsidiary intermediary between 13 February 2023 and 21 February 2024. CHAN has ceased registration as a subsidiary intermediary since 20 June 2024.
6. In around May or June 2020, CHAN met with the Scheme Member for discussing MPF matters. After discussion, the Scheme Member showed interest in conducting the Transfer. According to CHAN, the Scheme Member signed the necessary documents for the Transfer at a meeting in June 2020 (**Meeting**).
7. The Scheme Member was then out of Hong Kong between December 2020 and May 2022.

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

<sup>2</sup> Version 1 – September 2012 was in force at the time of the breaches.

<sup>3</sup> 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.

8. After the Scheme Member returned to Hong Kong in June 2022, he discovered that the Transfer had been effected and the application was submitted electronically in February 2021. The Scheme Member confirmed that he had not authorized CHAN to sign any electronic forms.
9. During the course of investigation, CHAN admitted that:
  - (a) during the Meeting, the Scheme Member had agreed to conduct the Transfer and he helped the Scheme Member to submit the application electronically via his iPad. CHAN also advised the Scheme Member to sign the relevant paper forms as a “backup” which would be submitted to Manulife in case the electronic application was found unsuccessful;
  - (b) eventually, the electronic application was unsuccessful and CHAN forgot to submit the paper forms for the Scheme Member to conduct the Transfer;
  - (c) CHAN admitted that he wanted to participate in a sales competition organized by Manulife in February 2021 and recalled that the Transfer had not been done for the Scheme Member. Without telling the Scheme Member, CHAN forged the Scheme Member’s signatures on the e-Forms, retrieved a copy of HKID card of the Scheme Member from a previous transaction and submitted them to Manulife to effectuate the Transfer; and
  - (d) during Manulife’s internal investigation, CHAN forged the Scheme Member’s signatures on the Paper Forms and provided copies of the Paper Forms to Manulife purporting that the Paper Forms were signed by the Scheme Member to authorize the Transfer during the Meeting. CHAN claimed that those paper forms signed by the Scheme Member had been destroyed by him after submission of the e-Forms in February 2021.
10. The Scheme Member confirmed that he had no knowledge of the Transfer application submitted in February 2021 and had neither signed the e-Forms nor the Paper Forms.

### **Breaches and reasons for action**

11. Section 34ZL(1)(a) of the MPFSO stipulates 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.
12. Section 34ZL(1)(b) of the MPFSO stipulates 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.
13. 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.

14. Paragraph III.17 of the Conduct Guidelines states that a registered intermediary should take all reasonable steps to carry out client 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 instruction by the registered intermediary.
15. Having considered all the circumstances of the case, the MPFA is of the view that CHAN, when carrying on a regulated activity, had failed to (i) act honestly, fairly, in the best interests of the client, and with integrity and (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 by:
  - (a) failing to promptly carry out the Scheme Member's instructions to conduct the Transfer;
  - (b) misusing the personal information of the Scheme Member to effectuate the Transfer;
  - (c) forging the signatures of the Scheme Member on the e-Forms in relation to the Transfer; and
  - (d) forging the signatures of the Scheme Member on the Paper Forms and submitting them to Manulife during the latter's internal investigation of the matter.

## **Conclusion**

16. The MPFA's view is that CHAN's conduct has breached the conduct requirements under section 34ZL(1)(a) and (1)(b) of the MPFSO and paragraphs III.9 and III.17 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against CHAN.
17. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including (a) the nature, seriousness and impact of CHAN's breaches; (b) CHAN has no previous disciplinary record with the MPFA; and (c) the need to send a strong deterrent message to the industry that the MPFA will not tolerate such misconduct.