

## STATEMENT OF DISCIPLINARY ACTION

### The Disciplinary Action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) reprimands and disqualifies TSANG Tung Lin (**TSANG**) from being registered as a Mandatory Provident Fund (**MPF**) intermediary for 12 months from 4 June 2024 to 3 June 2025.
2. The MPFA found that TSANG (i) impersonated a scheme member in calling two MPF trustees respectively to obtain the scheme member's account information; and (ii) failed to promptly carry out the scheme member's instruction to transfer that scheme member's MPF benefits from an MPF scheme to another scheme.
3. TSANG's conduct was in breach of the conduct requirements under sections 34ZL(1)(a) and 34ZL(1)(b) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**), and paragraph III.17 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**) (version 1 of September 2012)<sup>1</sup>.

### Summary of Facts

4. TSANG was an MPF subsidiary intermediary attached to an MPF principal intermediary AXA China Region Insurance Company Limited from 13 April 2011 to 29 August 2022. TSANG has ceased to be a subsidiary intermediary since 6 December 2022.
5. In a meeting with the scheme member in September or October 2019, TSANG asked the scheme member if that scheme member had any MPF accounts for TSANG to follow up so that TSANG could reach TSANG's sales target.
6. The scheme member replied to have three MPF accounts under three different MPF schemes. Upon TSANG's invitation, the scheme member agreed to consolidate the MPF benefits from two MPF accounts to another scheme (**New Scheme**).
7. TSANG then effected an MPF transfer from one of the two accounts of the scheme member to the New Scheme but failed to follow up the other account as instructed by the scheme member.
8. TSANG subsequently discovered the omission on 8 March 2020 and then submitted the relevant form for effecting the transfer from the other account of the scheme member to the New Scheme on the same day.
9. In the course of investigation, TSANG admitted:
  - (a) having impersonated the scheme member to call two MPF trustees to enquire about the scheme member's latest MPF account information; and

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<sup>1</sup> A revised Guidelines on Conduct Requirements for Registered Intermediaries (version 2) took effect on 1 March 2024.

- (b) having forgotten to take timely action on the instruction given by the scheme member to transfer the scheme member's MPF benefits from an MPF scheme to another scheme.

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

10. 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.
11. Section 34ZL(1)(b) of the MPFSO states 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.
12. Paragraph III.17 of the Conduct Guidelines states that a registered intermediary should take all reasonable steps to carry out a client's 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 instructions by the registered intermediary.
13. Having considered all the circumstances of the case, the MPFA is of the view that TSANG, 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) impersonating the scheme member in calling two MPF trustees to make enquiries about the scheme member's account information; and
  - (b) failing to promptly carry out the scheme member's instruction to transfer that scheme member's MPF benefits from an MPF scheme to another scheme.

### **Conclusion**

14. The MPFA's view is that TSANG's conduct has breached the conduct requirements under sections 34ZL(1)(a) and (1)(b) of the MPFSO and paragraph III.17 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against TSANG.
15. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including (a) the nature, seriousness and impact of TSANG's breaches; (b) TSANG 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.