

# MPFA suspended the registration of TO Kong as an MPF intermediary for 40 months

The MPFA has suspended the registration of TO Kong as an MPF intermediary for 40 months from 15 March 2021 to 14 July 2024<sup>1</sup>.

The MPFA found that when TO invited or induced an MPF scheme member to join or become a member of an MPF scheme as well as to transfer the scheme member's MPF benefits from another MPF scheme to that scheme in or about August 2018, he contravened the conduct requirements under the Mandatory Provident Fund Schemes Ordinance (MPFSO)<sup>2</sup>, including that when carrying on a regulated activity, a subsidiary intermediary must act honestly, fairly, in the best interests of the client and with integrity, and exercise a level of care, skill and diligence that may reasonably be expected of a prudent person who is carrying on the regulated activity. He also contravened the Guidelines on Conduct Requirements for Registered Intermediaries<sup>3</sup>. The key facts of TO's misconduct are summarized as follows:

- (1) TO effected the transfer without the scheme member's authorization;
- (2) in order to complete the unauthorized transfer, TO misused the scheme member's personal information and forged the scheme member's signature on five MPF forms; and
- (3) TO impersonated the scheme member in calling an MPF trustee to obtain the scheme member's account information.

In deciding the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of TO's breaches and that he has no previous disciplinary record with the MPFA.

The case was referred to the MPFA following investigation by the Insurance Authority.

A copy of the Statement of Disciplinary Action is available [here](#).

- Ends -

15 March 2021

1. TO (MPF Registration No. 111913) was as a subsidiary intermediary attached to Manulife International Limited between 30 December 2014 and 12 October 2018. He was then attached to Noble Apex Wealth Limited as a subsidiary intermediary between 14 February 2019 and 5 January 2021. TO is currently not attached to any principal intermediary. The MPFA will consider the suspension decision and the grounds for it should any principal intermediary apply for attachment of TO under section 34V of the MPFSO.

2. Section 34ZL(1)(a) and (b) of the MPFSO.

3. The Guidelines provides that an MPF intermediary should:

(a) 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 (paragraph III.9); and

(b) comply with the controls, procedures and standards of conduct as required by his principal intermediary (paragraph III.20).

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## STATEMENT OF DISCIPLINARY ACTION

### The disciplinary action

1. The Mandatory Provident Fund Schemes Authority (**MPFA**) has suspended the registration of TO Kong (**TO**) as a Mandatory Provident Fund (**MPF**) intermediary for 40 months from 15 March 2021 to 14 July 2024.
2. The MPFA found that:
  - (a) TO transferred the MPF accrued benefits of a scheme member from an MPF scheme to another MPF scheme without the scheme member's authorization (**Subject Transfer**);
  - (b) in order to complete the Subject Transfer, TO misused the scheme member's personal information and forged the scheme member's signature on five MPF forms; and
  - (c) TO impersonated the scheme member in calling an MPF trustee (**Trustee**) to obtain the scheme member's account information.
3. TO's conduct was in breach of the conduct requirements under sections 34ZL(1)(a) and (b) of the Mandatory Provident Fund Schemes Ordinance, Cap 485 (**MPFSO**) and paragraphs III.9 and III.20 of the Guidelines on Conduct Requirements for Registered Intermediaries (**Conduct Guidelines**).

### Summary of case

4. TO was a subsidiary intermediary attached to Manulife International Limited (**Manulife**) between 30 December 2014 and 12 October 2018. Subsequently, TO has been attached to Noble Apex Wealth Limited as a subsidiary intermediary since 14 February 2019.
5. At a meeting with the scheme member and a witness on 2 August 2018, TO introduced an MPF scheme of Manulife to the scheme member and suggested the scheme member to transfer her MPF accrued benefits to the MPF scheme of Manulife.
6. TO offered to help the scheme member to check her MPF account information with the Trustee. The scheme member agreed and passed to TO her HKID card to take a look while emphasizing that TO should not use her HKID card for any other purposes without her consent.
7. After the scheme member has left the meeting, TO, in the presence of the witness, called the hotline of the Trustee to obtain the scheme member's account information with imitation of a female voice (the scheme member is a female).
8. The scheme member confirmed that she had not consented to any transfer. Nevertheless, the Subject Transfer was completed in August 2018 without the scheme member's knowledge.

9. During the course of investigation, TO admitted that:
  - (a) TO had not explained or provided any MPF forms or documents to the scheme member in their meeting and the scheme member had not signed any forms or documents (physical or electronic) in relation to the Subject Transfer;
  - (b) TO signed the scheme member's name on each of the five electronic MPF forms and submitted them along with a copy of the scheme member's HKID card for effectuating the Subject Transfer; and
  - (c) In the phone call he made to the Trustee, he claimed to be the scheme member to obtain the scheme member's account information.
10. Manulife has documented its requirements that a subsidiary intermediary attached to it must comply with when conducting regulated activities in a "Registered MPF Intermediary's Golden Rules" (**Golden Rules**). Any unauthorized transfer of client's MPF accrued benefits and misuse of client's information are contrary to the Golden Rules.

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

11. 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.
12. 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.
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.20 of the Conduct Guidelines states that a subsidiary intermediary should comply with the controls, procedures and standards of conduct as required by his principal intermediary.
15. Having considered all the circumstances of the case, the MPFA is of the view that TO had when conducting a regulated activity 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) transferring the MPF accrued benefits of the scheme member from an MPF scheme to another MPF scheme without the scheme member's authorization;

- (b) misusing the scheme member's personal information and forging the scheme member's signature on the five forms in order to complete the Subject Transfer; and
- (c) impersonating the scheme Member in calling an MPF trustee to obtain the scheme member's account information.

## **Conclusion**

16. The MPFA's view is that TO's conduct has breached the conduct requirements under sections 34ZL(1)(a) and (b) of the MPFSO, and paragraphs III.9 and III.20 of the Conduct Guidelines. The MPFA has therefore decided to take the disciplinary action set out in paragraph 1 hereinabove against TO.
17. In determining the disciplinary sanction, the MPFA took into account all relevant circumstances, including the nature, seriousness and impact of TO's breaches and that he has no previous disciplinary record with the MPFA.