

保險業監理處

香港金鐘道六十六號
金鐘道政府合署二十一樓



OFFICE OF THE COMMISSIONER
OF INSURANCE

21st Floor,
Queensway Government Offices,
66 Queensway,
Hong Kong

圖文傳真 Fax: (852) 2869 0252

覆函請註明本處檔號

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28 November 2012

電話 Tel. 2867 2711

To: Chief Executives of authorized insurers
carrying on long term business and registered
as Principal Intermediaries with the MPFA

Dear Sirs,

Mandatory Provident Fund (“MPF”) Schemes

It has come to our attention from recent media coverage that some MPF intermediaries under the insurance sector may not have fully complied with the necessary conduct requirements when conducting MPF regulated activities¹.

You are aware that the Mandatory Provident Fund Schemes (Amendment) Ordinance 2012, which provides a statutory framework for the regulation of MPF intermediaries, has come into operation on 1 November 2012. Under the new regulatory regime, a person must be duly registered with the Mandatory Provident Fund Schemes Authority (“MPFA”) before he/she can carry on MPF regulated activities, and is required to comply with the statutory conduct requirements that are set out under sections 34ZL and 34ZM of the Mandatory Provident Fund Schemes Ordinance (“MPFSO”).

For the purpose of providing guidance on the standard of conduct expected of MPF intermediaries under the new regulatory regime, the MPFA has issued the Guidelines on Conduct Requirements for Registered Intermediaries (“MPFA Conduct Guidelines”) which has also become effective on 1 November 2012. The MPFA Conduct Guidelines, in particular, provide guidance on the circumstances in which the MPFA will be satisfied that a MPF intermediary has, or has not, complied with the statutory conduct requirements.

¹ Under section 34F of the Mandatory Provident Fund Schemes Ordinance, a person carries on a regulated activity if the person invites or induces, or attempts to invite or induce, another person to make a material decision or gives regulated advice on MPF scheme.

In connection with the above, we are writing to draw your particular attention to the following provisions under the MPFA Conduct Guidelines. Please note that they are not exhaustive, and reference should be made to the MPFA Conduct Guidelines for other full details.

1) Suitability Assessment

In extending an invitation or inducement, or in giving regulated advice to a specific client that involves the choice of a particular constituent fund (examples of which are provided in the MPFA Conduct Guidelines III.25), a MPF intermediary should have regard to the client's particular circumstances by conducting a suitability assessment. Besides these circumstances, there may be other occasions where conducting suitability assessment is appropriate. MPF intermediaries should refer to the MPFA Conduct Guidelines III.25 to III.27 for the principles and procedures thereof for conducting such suitability assessment.

In the case where the MPF intermediary might not be able to obtain the necessary information from the client to complete the necessary suitability assessment, the MPF intermediary should not invite or induce the client to consider a particular constituent fund nor provide any regulated advice to the client in relation to a particular constituent fund (MPFA Conduct Guidelines III.28).

2) Risk Matching

After conducting the suitability assessment, where the client insists on choosing to invest his/her contribution in, or transfer his/her accrued benefits to, a constituent fund for which the risk level is higher than the client's risk profile as assessed ("risk mismatch"), the MPF intermediary should follow the procedures as set out in the MPFA Conduct Guidelines III.29 and III.30. These procedures include audio recording of the conversation regarding the risk mismatch between the client and the MPF intermediary. If the processes are not audio-recorded, then either a post-sale call or a post-sale confirmation should be implemented.

3) Information about Monetary and Non-monetary Benefits

MPF intermediary should also provide the client with a statement, at the time of the invitation, inducement or advice, on whether the principal intermediary ("PI") and/or any of its subsidiary intermediaries ("SIs") will charge any direct fees for the services to be provided or will be compensated (either directly or indirectly) in some other manner (such as commission or salary bonus) in such

respect. The statement should also set out whether the benefits receivable would be different depending on the choice of the MPF scheme(s) or constituent fund(s) made by the client (MPFA Conduct Guidelines III.35).

As a PI, you should ensure that sufficient training is provided to the SIs attached to you and that they have the necessary knowledge and skills to carry on MPF regulated activities, advise only on matters for which they are competent, and are fully conversant with the selling procedures and regulatory requirements (MPFA Conduct Guidelines III.21 to III.23). Under section 34ZL(3) of the MPFSO, you are also required, inter alia, to :

- (a) establish and maintain proper controls and procedures for securing compliance by yourself as PI, and by each SI attached to you, with all the applicable requirements under the relevant Part IVA of the MPFSO; and
- (b) use your best endeavours to secure observance by SIs attached to you of the controls and procedures so established.

In this regard, please review the adequacy of the training given to the SIs attached to you for complying with the requisite requirements, and the effectiveness of your internal controls and procedures to ensure full compliance under the MPFSO.

Please note that the Insurance Authority, as the frontline regulator for MPF intermediaries under the insurance sector, will monitor the compliance with the applicable requirements by PIs and SIs in our supervisory process.

Yours faithfully,

(Miss Nancy Chien)
for Commissioner of Insurance
(Insurance Authority)

c.c. Responsible Officers of Principal Intermediaries (Insurers)
Mandatory Provident Fund Schemes Authority (Attn: Mr. Robin Gill)