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|  <b>HONG KONG MONETARY AUTHORITY</b><br>香港金融管理局 |                                                               |                |
| <b>Supervisory Policy Manual</b>                                                                                                 |                                                               |                |
| <b>MP-1</b>                                                                                                                      | <b>Supervision of Mandatory Provident Fund Intermediaries</b> | V.1 – 23.11.01 |

This module should be read in conjunction with the [Introduction](#) and with the [Glossary](#), which contains an explanation of abbreviations and other terms used in this Manual. If reading on-line, click on blue underlined headings to activate hyperlinks to the relevant module.

## Purpose

To set out the HKMA's approach to the supervision of AIs that are Mandatory Provident Fund ("MPF") intermediaries

## Classification

A non-statutory guideline issued by the MA as a guidance note

## Previous guidelines superseded

Circular "Supervision of MPF Intermediaries" dated 21.03.00

## Application

To AIs that are registered with the Mandatory Provident Fund Schemes Authority ("MPFA") as MPF intermediaries

## Structure

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## **1. Background**

### **1.1 Definition of MPF intermediary**

1.1.1 MPF intermediary means a corporation (e.g. an AI) or its representative (e.g. an officer or an employee of an AI) engaged in:

- selling MPF schemes; or
- advising clients or customers on constituent funds or underlying approved pooled investment funds of MPF schemes.

### **1.2 Registration**

1.2.1 Als that are acting, or intend to act, as MPF intermediaries should ensure that they themselves and their officers and employees involved in that activity are properly registered with the MPFA.

1.2.2 For details of the registration requirements see the MPFA's "Guide to Registration as MPF Intermediaries" ("the MPFA Guide").

### **1.3 Memorandum of Understanding**

1.3.1 The HKMA has entered into a Memorandum of Understanding with the MPFA, the Securities and Futures



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Commission (“SFC”) and the Insurance Authority. Under this Memorandum the HKMA is responsible for the supervision of:

- Als that are MPF intermediaries; and
- those of their employees that are involved in MPF business.

#### **1.4 Code of Conduct**

- 1.4.1 The MPFA has issued the “Code of Conduct for MPF Intermediaries” (“the MPFA Code”), which sets out minimum standards of conduct applicable to MPF intermediaries. It aims at promoting good and ethical practices and fostering public confidence in the MPF system.
- 1.4.2 The MPFA Code also sets out how the relevant supervisory authorities, including the HKMA, intend to perform their functions of ensuring that all MPF intermediaries are fit and proper and suitable persons or entities to conduct MPF selling and advising business.
- 1.4.3 The MPFA Code is complementary to other codes such as the Code of Banking Practice jointly issued by the Hong Kong Association of Banks and the DTC Association and endorsed by the HKMA.
- 1.4.4 Where the MPFA Code prescribes standards which are less stringent or more general than those laid down in this module, the Code of Banking Practice or any other enactments, regulations, guidelines or codes applicable specifically to Als, the latter shall take precedence over the MPFA Code.

#### **1.5 Risks in MPF business**

- 1.5.1 Als acting as MPF intermediaries may be exposed specifically to operational, reputation and legal risk.
- 1.5.2 As regards operational risk, Als may be subject to claims from customers and other MPF service providers arising from inappropriate advice given, negligence in handling



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customer transactions, human error, deficiencies in information systems, fraud, etc.

1.5.3 Als' reputation may suffer, and their business may be negatively affected, if any unfair or improper business practices (e.g. penalising customers for not using their services), staff misconduct or operational errors come to light.

1.5.4 Als may be subject to losses if they fail to comply with relevant legal or regulatory requirements. Serious violations of the law and regulations may lead to substantial fines or punitive charges.

## **2. Supervisory approach**

### **2.1 General principles**

2.1.1 In considering whether Als and their employees are conducting MPF-related activities properly and whether they are fit, proper and suitable to remain MPF intermediaries, the HKMA will have regard to the following principles which are derived from the MPFA Code:

- honesty and fairness - MPF intermediaries should conduct their business honestly, fairly, in good faith and with integrity at all times;
- diligence - in conducting their business activities MPF intermediaries should act with due skill, care and diligence, give advice only on those matters with which they are competent to deal and seek advice from their seniors, or the relevant promoter, where they lack the requisite competence, or as otherwise necessary;
- capabilities - MPF intermediaries should have, and employ effectively, the resources and procedures which are needed for the proper performance of their business activities;



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- information about customers - when advising customers on the selection of constituent funds, MPF intermediaries should take into consideration, where practicable, such customers' financial situation, investment experience, risk preferences and investment objectives;
- information for customers - MPF intermediaries should make adequate disclosure of relevant material information in their dealings with customers;
- conflicts of interest - MPF intermediaries should try to avoid conflicts of interest and, where they cannot be avoided, disclose them to their customers and ensure that the latter are fairly treated;
- client's assets - MPF intermediaries should ensure that client monies are properly accounted for and that all client payments made by cheque are payable to the trustee of the MPF scheme only;
- compliance - MPF intermediaries should comply with all regulatory requirements applicable to the conduct of their business activities; and
- complaints - MPF intermediaries should ensure that client complaints are promptly and properly handled, independently investigated if necessary and fully documented, as well as being reported to the MPFA and the HKMA in accordance with the MPFA Code.

## **2.2 Employee suitability**

2.2.1 The HKMA requires AIs to ensure the fitness, propriety and suitability of those of their employees who are involved in selling or advising activities in relation to MPF schemes and to carry out enforcement and disciplinary actions on MPF intermediaries that are acting on their behalf.



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2.2.2 Als should ensure that only employees with adequate professional competence<sup>1</sup> are allowed to engage in the conduct of MPF business.

### 2.3 Internal controls

2.3.1 Als should have in place adequate internal control systems for conducting selling and marketing activities that relate to MPF schemes.

2.3.2 Such internal control systems should include, at a minimum:

- procedural manuals and guidelines for such activities;
- sound procedures and controls for handling customers' assets;
- adequate supervision and monitoring of the conduct of sales staff; and
- well-defined procedures for handling customer complaints.

2.3.3 The above systems and controls should be incorporated into Als' relevant policies and procedures (see subsection 2.4 below).

### 2.4 Policies and procedures

2.4.1 Als engaging in the business of MPF intermediary should establish and maintain policies and procedures covering such activity. As a minimum they should cover:

- adherence to the MPFA Code;
- the departments, units or other group companies through which such business will be conducted, with clear responsibilities and reporting lines;

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<sup>1</sup> For example, an employee who is qualified to be an MPF intermediary should have passed the MPF intermediaries examination as required in the MPFA Guide.



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- business development processes, including arrangements for enrolling employers and employees into MPF schemes and any incentives and after-sale services to be offered to customers;
- the maintenance of a list of staff who are registered with the MPFA as MPF individual intermediaries, indicating whether they can advise on securities, insurance policies or both, of the MPF schemes sold by the AI and its staff and of the constituent funds or underlying approved pooled investment funds of MPF schemes on which the AI and its staff give advice;
- the requirement for all promotional and sales materials to be adequate for customers, up to date, accurate and not misleading and the maintenance of a central library with copies of all such materials, records of who prepared them and any approvals by the SFC;
- the requirement for adequate operational, compliance and complaint handling procedures to guide staff in the conduct of MPF-related selling and advising activities, with guidelines and checklists for sales staff covering inter alia essential information to be provided to and obtained from customers;
- guidelines on the handling of MPF customers' assets;
- arrangements for supervising and monitoring the conduct of MPF sales staff, e.g. reviews of checklists, returns and call reports, etc. and management reporting procedures covering sales, complaints and any exceptions in MPF-related activities; and
- staff training in MPF-related business, including a reminder of the AI's policies on the acceptance of benefits, and the maintenance of training records.

2.4.2 Als' policies should also establish whether custodial services are to be offered and, if so, the related procedures and controls.



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- 2.4.3 Als are expected to establish adequate policies and controls to guard against and manage the potential risks described in subsection 1.5 above and to have in place measures to ensure that they comply with all relevant laws and regulations.

## **2.5 Internal audit and compliance**

- 2.5.1 Als are recommended to consult their internal auditors and involve the compliance function in the development of procedures and guidelines on MPF-related business.
- 2.5.2 Als' policies on MPF-related business should include a requirement for the internal audit plan to cover such activities. The coverage and frequency of internal audits, handling of the resultant reports and reporting to senior management on the resolution of exception items should be specified. They should also state whether the compliance function should play any role in the programme for monitoring such activities.

## **2.6 Monitoring by HKMA**

- 2.6.1 The HKMA will monitor Als' involvement in MPF business, and in particular their compliance with the MPFA Code, through on-site examinations. It will assess whether Als' internal control systems are sufficient to provide reasonable assurance that their MPF-related activities are conducted in accordance with the standards prescribed in the MPFA Code.
- 2.6.2 To facilitate the supervision of such activities, the HKMA requires all Als in Hong Kong that are registered as MPF intermediaries to submit to it the information specified in the "Return of Mandatory Provident Fund Related Activities - MA(BS)13".





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