MPFA disciplines Convoy Financial Services Limited for deviation from the Guidelines on Conduct Requirements for Registered Intermediaries

The Mandatory Provident Fund Schemes Authority (MPFA) has made a disciplinary order against Convoy Financial Services Limited (CFSL) including a fine of $500,000 for deviation from the Guidelines on Conduct Requirements for Registered Intermediaries (Conduct Guidelines), issued by the MPFA as guidance for the conduct requirements[1] under the Mandatory Provident Fund Schemes Ordinance (MPFSO) from November 2012 to July 2014.

CFSL, as a principal intermediary[2], had adopted a standard which is different from that under the Conduct Guidelines[3] when assessing whether the risk level of a client's choice of MPF fund(s) was higher than the client's risk profile as assessed by CFSL/its subsidiary intermediary[4]. As a result, CFSL had not identified 5,154 clients as cases of risk-mismatch when those clients would have been identified if there had not been a deviation from the Conduct Guidelines[5].

In addition, in respect of the risk-mismatch cases, CFSL had not either kept an audio-recording of the conversations about the risk mismatch between its subsidiary intermediaries and clients, or conducted post-sale confirmation by phone or in writing in accordance with the Conduct Guidelines[6]. A total of 6,860 clients were involved. Out of the said 6,860 clients, 5,154 were clients which were not identified by CFSL as cases of risk-mismatch (as explained in the paragraph above). For the 1,706 clients which were identified by CFSL as cases of risk-mismatch, CFSL had, instead, requested those clients to give written confirmation as to their understanding of risk-mismatch and their reasons to proceed with the subscription in light of the risk-mismatch.

In determining the disciplinary order, the MPFA took into account all circumstances of the case, including that (i) there was no evidence of any client having suffered any loss; (ii) CFSL has taken remedial action including notifying the affected clients of the risks involved in their cases and implementing new procedures for compliance; (iii) CFSL has engaged an independent consultant to review the affected cases and remedial action; (iv) CFSL was fully co-operative with the MPFA's review; (v) the methodology and procedure adopted were honestly regarded by CFSL as compliant to the spirit underlying the Conduct Guidelines; (vi) CFSL has no previous disciplinary record with the MPFA, and (vii) a new team of management was appointed to manage CFSL.

The deviation from the Conduct Guidelines by CFSL was discovered during an on-site inspection and subsequently investigated by the Insurance Authority which then referred it to the MPFA for follow-up.

- Ends -

24 September 2019

1. According to section 34ZL(1)(d) of the MPFSO, when carrying on a regulated activity, a principal intermediary must have such regard to client's particular circumstances as is necessary for ensuring that the regulated activity is appropriate to the client. According to section 34ZL(3)(a) of the MPFSO, a principal intermediary must establish and maintain proper controls and procedures for securing compliance with the conduct requirements by it and its subsidiary intermediaries.
2. An MPF principal intermediary is a business entity registered by the MPFA to engage in conducting MPF sales and marketing activities and giving regulated advice.
3. The Conduct Guidelines provide guidance about the circumstances in which the MPFA will be satisfied that an MPF intermediary has, or has not,

complied with a conduct requirement under the MPFSO for the purpose of determination of any disciplinary order.

4. An MPF 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.

5. According to paragraph III.29 of the Conduct Guidelines, once a client chooses a constituent fund with risk level higher than the client's risk profile, the intermediary must complete various specific procedures (a) to (f), which includes explaining to the client the risks in the chosen fund and that it might not be suitable for the client. The intermediary has to make documentary record of, amongst other things, the explanations given to the client and the reasons given by the client in respect of his/her choice, ask the client to acknowledge the record in writing and give a copy of the signed document to the client. However, CFSL followed the procedures (a) to (f) of paragraph III.29 only when the weighted average risk level of all the chosen constituent funds of the client was higher than the client's risk profile.

6. According to paragraph III.30 of the Conduct Guidelines, when clients choose a constituent fund with a risk level higher than their risk profile, the intermediary must audio record the conversation regarding the risk mismatch to provide an audit trail. If the conversation is not audio recorded, there should be a post-sale confirmation (by telephone or in writing).

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