

**Process Review Panel in relation to the
Regulation of Mandatory Provident Fund Intermediaries**

2019 Annual Report

Table of Contents

	Page
Message from the Chairman	2
<u>Chapter 1</u> Background	4
<u>Chapter 2</u> Work of the PRP	9
<u>Chapter 3</u> Observations and Recommendations from the Case Review	14
<u>Chapter 4</u> Way Forward	23
<u>Chapter 5</u> Acknowledgement	24

Message from the Chairman

As the Chairman of the Process Review Panel in relation to the Regulation of Mandatory Provident Fund Intermediaries (“PRP”), it gives me great pleasure to lead the Panel in producing its fourth annual report.

Since the commencement of the statutory regulatory regime of Mandatory Provident Fund (“MPF”) intermediaries, the PRP has played a vital role in ensuring operational consistency and smooth co-ordination among the Mandatory Provident Fund Schemes Authority (“MPFA”) and the three Frontline Regulators of MPF intermediaries, namely, the Hong Kong Monetary Authority, the Insurance Authority and the Securities and Futures Commission. Leveraging the expertise of our members, the PRP has reviewed and advised the MPFA on the adequacy and consistency of its internal procedures and operational guidelines in relation to its regulation of MPF intermediaries. I am glad to learn that the MPFA has taken up most of our recommendations in past Annual Reports and spared no effort in continuously improving the statutory regulatory regime of MPF intermediaries.

The current review cycle spanned from 1 November 2017 to 30 April 2019, which is 18 months following the last PRP review. The review period is expanded from the normal 12 months to 18 months due to a low volume of closed cases. There were a total of 15 completed conduct cases relating to MPF intermediaries. Out of these cases, the PRP selected six cases for detailed review with the assistance of MPFA case officers. Our members made insightful comments and suggestions for the MPFA.

This year is a special year for the PRP. Having served as the inaugural Chairman of the PRP since its establishment in 2013, I will be retiring from the position in October 2019 after six years of service. On this special occasion, I would like to express my heartfelt gratitude to all past and present members for their time and dedication in supporting the work of the PRP. I would especially like to thank Mr Chan Yim-kwong, Ms Agnes Choi, Mr Eugene Fung S.C., Mr Christopher Hui and Ms Nicole Yuen, for working side-by-side with me during the past six years over three terms of appointment.

On the successful completion of six years’ work, I believe it is an opportune time for us to, based on our experience in past exercises, reflect on how best we can ensure the PRP can continue to contribute effectively to the betterment of the MPF regime in the future.

Currently, the ambit of the PRP is confined to the regulation of MPF intermediaries only. However, in addition to MPF intermediaries, the MPFA's regulatory functions also include many other areas, such as MPF Trustees' licensing, supervision, investment regulation, applications for fee adjustments, etc. It also assumes the role as the Registrar of Occupational Retirement Schemes. It goes without saying that members of the public have high expectations on these other regulatory functions to be carried out as fairly and efficiently as the MPF intermediaries regime.

I am also aware that the Process Review Panels of other financial regulators, such as the Securities and Futures Commission and the Financial Reporting Council, cover the full regulatory ambits of their respective regulators.

I believe it is worthwhile to consider whether, in the future, the PRP can maximize its contribution to the effectiveness of the MPF regime as a whole by expanding its scope to cover other areas of the MPFA's operation, including but not limited to, the authorisation of MPF trustees, schemes and Constituent Funds, and its registration and granting of exemption of occupational retirement schemes, etc. I make these suggestions for the consideration of the Government.

Last but not least, I would also like to thank the MPFA for cooperating closely with the PRP during the past six years, and their dedication to ensuring robustness and transparency of its internal operations. I am also grateful for the support provided by the Financial Services and the Treasury Bureau as the PRP's Secretariat.

With the joint efforts of the PRP, the MPFA and the Government, I am confident that we can continue to enhance the MPF regime in the interests of the Hong Kong community. I give my successor my best wishes in leading the PRP forward for the betterment of the MPF regime!

Dr Eddy Fong Ching, GBS, JP
Chairman
September 2019

Chapter 1: Background

Overview

- 1.1 The Process Review Panel in relation to the Regulation of Mandatory Provident Fund Intermediaries (“PRP”) is an independent panel established by the Chief Executive in November 2013.
- 1.2 The PRP is tasked to review and advise the Mandatory Provident Fund Schemes Authority (“MPFA”) on the adequacy and consistency of its internal procedures and operational guidelines governing the actions taken and operational decisions made by the MPFA and its staff in the performance of its regulatory functions relating to the regulation of Mandatory Provident Fund (“MPF”) intermediaries and associated matters.

Functions

- 1.3 The Terms of Reference of the PRP are as follows –
 - (a) to review and advise the MPFA on the adequacy and consistency of its internal procedures and operational guidelines governing the actions taken and operational decisions made by the MPFA and its staff in the performance of the regulatory functions in relation to the following areas –
 - (i) registration of MPF intermediaries and associated matters by the MPFA;
 - (ii) co-ordination and follow-up with the Frontline Regulators (“FRs”) ¹ in relation to inspection and investigation of registered MPF intermediaries;
 - (iii) taking of disciplinary actions by the MPFA; and

¹ The Hong Kong Monetary Authority (“HKMA”), the Insurance Authority (“IA”), and the Securities and Futures Commission (“SFC”) are the FRs responsible for the supervision and investigation of complaints against registered MPF intermediaries whose core business are in banking, insurance and securities respectively.

- (iv) receipt and handling of complaints against MPF intermediaries in relation to sales and marketing activities and the giving of advice, in relation to MPF registered schemes.
- (b) to receive and consider periodic reports from the MPFA on all completed or discontinued cases in the above-mentioned areas including reports on investigation cases which are not completed within one year and on any appeals;
- (c) to receive and consider periodic reports from the MPFA in respect of complaints concerning sales and marketing activities and the giving of regulated advice, in relation to registered MPF schemes, including periodic reports on complaints that have not been concluded within one year;
- (d) to call for and review the files of the MPFA relating to any case or complaint referred to in the periodic reports mentioned in paragraphs (b) and (c) above for the purpose of verifying that the actions taken and decisions made in relation to that case or complaint adhere to and are consistent with the relevant internal procedures and operational guidelines, and to advise the MPFA accordingly;
- (e) to advise the MPFA on such other relevant matters as the MPFA may refer to the PRP or on which the PRP may wish to advise; and
- (f) to submit annual reports and, if appropriate, special reports (including reports on problems encountered by the PRP) to the Financial Secretary which, subject to applicable statutory secrecy provisions and other confidentiality requirements, should be published.

1.4 The PRP does not review the merits of the MPFA's decisions and actions. Rather, it focuses on the procedural propriety in the regulatory regime.

Membership

- 1.5 The PRP comprises 12 members, including the Chairman, who come from a wide spectrum of professions including the MPF and insurance sector, financial sector as well as the legal profession. The Chairman of the MPFA and the representative of the Secretary for Justice are ex officio members of the PRP.
- 1.6 The membership of the PRP is as follows –

Chairman

Dr Eddy FONG Ching, GBS, JP

Members

Miss Grace CHAN Man-yee

Mr CHAN Yim-kwong

Ms Agnes CHOI Heung-kwan, MH

Mr Eugene FUNG Ting-sek, SC

Mr HUI Ching-yu

Mr Allen LAU Kai-hung (appointed as from 12 April 2019)

Mr James LIN

Ms Nicole YUEN Shuk-kam

Ms Grace YU Ho-wun (appointed as from 12 April 2019)

Ex officio Members

Dr David WONG Yau-kar, GBS, JP

(in his capacity as the Chairman of the MPFA)

Mr YUNG Lap-yan

(in his capacity as the representative of the Secretary for Justice)

Secretariat

Financial Services and the Treasury Bureau

The Statutory Regime

- 1.7 Under the statutory regulatory regime for MPF intermediaries which commenced operation in November 2012, the MPFA is the sole authority to administer the registration of MPF intermediaries, issue guidelines on compliance with statutory requirements applicable to registered MPF intermediaries, and impose disciplinary sanctions on them. On the other hand, the HKMA, the IA and the SFC assumed the statutory role as FRs which are responsible for the supervision and investigation of complaints against registered MPF intermediaries whose core business are in banking, insurance and securities respectively.
- 1.8 This institution-based regulatory approach has taken into account the market profile of existing MPF intermediaries who carry on MPF sales and marketing activities incidental to their main lines of business in banking, insurance and/or securities, and are regulatees of the HKMA, the IA and/or the SFC, as the case may be.
- 1.9 Under the statutory regime, a person is required to be registered with the MPFA as an MPF intermediary before he/she can engage in MPF sales and marketing activities that may influence a potential / existing participant of an MPF scheme in making a decision that affects the latter's benefits in the MPF scheme. MPF intermediaries have to comply with a set of conduct requirements set out in the relevant provisions of the Mandatory Provident Fund Schemes Ordinance (Cap 485) ("MPFSO") and the Guidelines on Conduct Requirements for Registered Intermediaries ("Guidelines") when carrying on a regulated activity. Non-compliance with the required standards, once established, may result in disciplinary sanctions imposed by the MPFA.
- 1.10 Generally speaking, an MPF intermediary is carrying on a regulated activity when he/she invites or induces, or attempts to invite or induce, another person to make a material decision, or gives regulated advice in respect of various matters concerning a particular registered MPF scheme or a particular constituent fund of a registered MPF scheme.

Co-ordination among the MPFA and FRs

- 1.11 To institutionalise the co-ordination among the MPFA and the FRs, the MPFA signed with the FRs in May 2013 a “Memorandum of Understanding concerning the Regulation of Regulated Persons with respect to Registered Schemes under the Mandatory Provident Fund Schemes Ordinance” (“MOU”), which laid down the broad framework of the interaction and co-operation among the MPFA and the FRs. The MOU applies to the statutory regulatory regime on sales, marketing activities and giving of advice in relation to registered schemes under Part 4A of the MPFSO.
- 1.12 The MPF Intermediaries Regulation Committee (“MIRC”), a forum formed by the MPFA since 2012 for the MPFA and the FRs to discuss issues of regulatory concerns, held three meetings from 1 November 2017 to 30 April 2019 (“current review cycle”). The MPFA and the FRs exchanged views on supervisory and enforcement issues relating to MPF intermediaries.
- 1.13 In addition to the MIRC, three meetings were held between the MPFA and the IA during the period for progress updates relating to complaints handled by the MPFA, cases referred by the MPFA to the IA for investigation, and supervisory work conducted by the IA.

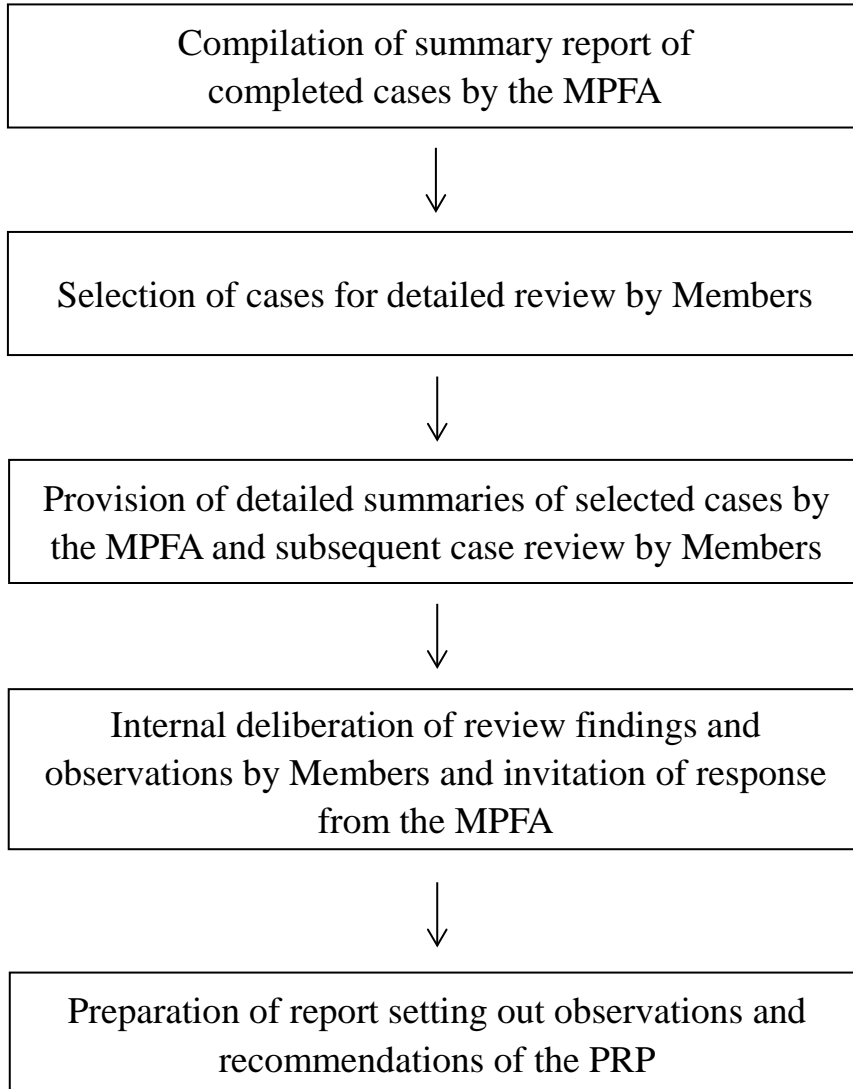
Chapter 2: Work of the PRP

Modus Operandi

- 2.1 Where the MPFA receives a complaint against an MPF intermediary, the MPFA would carry out a preliminary assessment before referring the matter to the relevant FR to consider investigation. Where a complaint is directly lodged with an FR, the FR would carry out a preliminary assessment and then proceed with an investigation direct if it thinks fit. The FR will also inform the MPFA concurrently of the receipt of the complaint. In any event, the outcome of all investigation by an FR will be passed to the MPFA for final assessment and necessary follow-up actions including disciplinary sanctions.
- 2.2 In exercising its core functions of reviewing and advising the MPFA on the adequacy and consistency of its internal procedures with regard to the regulation of MPF intermediaries, the PRP reviews the MPFA's operating procedures for registration, complaint handling, and disciplinary proceedings, as well as periodic reports of closed cases in relation to MPF intermediaries.
- 2.3 Members discuss and endorse observations and recommendations with respect to the operating procedures and cases reviewed for the MPFA to respond and follow up. The PRP then issues an Annual Report setting out the observations and recommendations of members having regard to the response from the MPFA.
- 2.4 Members of the PRP are obliged to keep confidential the information furnished to them in the course of the PRP's work. To maintain the independence and impartiality of the PRP, all members of the PRP are required to make declaration of interests upon commencement of their terms of appointment and to do so before conducting each case review.

Case Review Workflow

2.5 The workflow of the PRP case review is as follows –



Selection of Cases for Review

2.6 The MPFA completed 15 conduct cases relating to MPF intermediaries during the current review cycle. The PRP selected six of these cases for detailed examination.

2.7 With the assistance of the MPFA, case summaries of the six cases selected were prepared for members' perusal. A case review session was held in May 2019 at the MPFA's office with the presence of Secretariat staff as well as MPFA case officers.

2.8 Observations of the PRP in respect of the selected cases and its recommendations to the MPFA are set out in Chapter 3.

MPFA’s Follow-up on the Recommendations in the 2018 Annual Report

2.9 In its 2018 Annual Report, the PRP made a number of suggestions to the MPFA for improving the handling of cases and for expediting the completion of cases. These suggestions included –

- (a) reviewing its internal guidelines and procedures to shorten the time taken in ascertaining the facts of a case, and considering expediting actions for straightforward cases;
- (b) revisiting its practice of handling cases which involve both criminal and conduct elements, and seeking legal advice with a view to allowing both conduct and criminal investigations to be processed in parallel where possible;
- (c) requiring principal intermediaries (“PIs”) to put in place internal procedures to strengthen their oversight over subsidiary intermediaries (“SIs”) who are under investigation to minimise the likelihood of the occurrence of any similar conduct breaches;
- (d) ensuring more consistency and clearer documentation in determining disciplinary sanctions and/or follow-up actions to increase the transparency of the MPFA’s decisions and provide greater certainty to the industry and the public;
- (e) including case studies in circulars to MPF intermediaries to enhance their understanding of unacceptable behaviour, and working with the FRs to take proactive measures to ensure that PIs/ SIs comply with the conduct requirements; and
- (f) deepening ties with FRs with a view to further streamlining the case handling process and enhancing efficiency through better mutual understanding.

- 2.10 In response, the MPFA had taken various actions to improve the handling of cases. The key actions taken are summarised as follows –
- (a) revised internal procedures and guidelines, refined strategy in case prioritization, increased manpower and built templates to expedite case completion;
 - (b) for cases involving a criminal offence and a separate conduct breach, explored the possibility of pursuing the conduct investigation in parallel;
 - (c) discussed with FRs to strengthen supervision over PIs and SIs, and invited FRs to consider taking follow-up actions on remedial measures taken by PIs and disciplinary actions by assessing the PIs/ SIs' fitness and properness under their regimes;
 - (d) maintained a database and enhanced procedures to assist case officers in making consistent decisions about the appropriate actions to be taken;
 - (e) provided more details and reasoning about the MPFA's decisions in correspondence with the MPF intermediaries, organized regular seminars or training courses for MPF intermediaries to enhance the industry's understanding of the conduct requirements, and to promote a compliance culture;
 - (f) issued press releases informing the public of disciplinary actions taken to increase the transparency of the MPFA's decisions and reinforce deterrent effect;
 - (g) issued circulars to facilitate understanding by the industry and the public on the MPFA's enforcement approach and unacceptable conduct by SIs, and to raise the compliance culture and the professional competency of PIs and SIs; and
 - (h) maintained close dialogues with the FRs to exchange views on supervisory and enforcement issues relating to MPF intermediaries, and to share their regulatory experience and latest development in their regimes.

2.11 The PRP welcomes the above follow-up actions undertaken by the MPFA in the light of the recommendations in the 2018 Annual Report. The PRP hopes that the MPFA will continue the work to ensure procedural propriety of the regulatory regime.

Chapter 3 : Observations and Recommendations from the Case Review

- 3.1 The PRP reviewed 15 cases relating to MPF intermediaries completed during the current review cycle, which was the period of 18 months following the last PRP review. All of these cases involved MPF intermediaries whose FR was the IA, 12 of these cases had been referred to and/or investigated by the IA. Two cases were closed by the MPFA after its assessment of the merits of the cases and one case was closed because the complainant did not give IA consent to handle the case.
- 3.2 The 15 cases are classified into the following five categories with reference to the main allegations against the PIs or SIs concerned.
- Unauthorized transfer, forgery of signature and/or impersonating client to collect MPF account information;
 - Failing to provide necessary information clearly and accurately to client;
 - Failing to execute client's instruction promptly;
 - Conviction of an offence under the MPFSO; and
 - Failing to keep client's information confidential.
- 3.3 Out of the 15 cases, 12 were substantiated and three were unsubstantiated. Disciplinary actions were taken in five substantiated cases. Sanctions imposed by the MPFA on the SIs ranged from public reprimand to suspension of registration/disqualification from being registered as an MPF intermediary for up to 30 months. For the other seven relatively minor substantiated breaches, the MPFA issued compliance advice letters to the SIs and/or PIs concerned.
- 3.4 As regards the three unsubstantiated cases, the MPFA issued a reminder letter to the relevant SI of one case with a view to raising the overall standards of the industry, meeting the expectation of the public and promoting the culture of compliance. The other two unsubstantiated cases were closed with no further action.
- 3.5 Among the 15 completed cases, the PRP reviewed six cases in detail. These included five substantiated cases and one

unsubstantiated case. The PRP noted a number of instances where the MPFA could make improvements to its complaint handling procedures with respect to the regulation of MPF intermediaries. The commonalities among the cases identified are summarised in the ensuing paragraphs.

A. Shortening the Handling Time of Cases

- 3.6 In previous Annual Reports, the PRP pointed out that the handling time of the reviewed cases was unnecessarily long and incommensurate with their level of complexity. As the MPFA had accumulated experience in case closure, it was expected that the handling time would be shortened generally.
- 3.7 According to the MPFA, the long processing time was partly due to the re-organisation within the MPFA, frequent turnover of staff and manpower shortage in the Enforcement Division, resulting in a backlog of cases.

Observations

- 3.8 The average handling time of the cases closed in the current review cycle was 17.3 months (inclusive of the time spent on investigation by the relevant FR), which was longer than that of the 2018 review cycle (15.3 months) and 2017 review cycle (13.6 months). Members are aware that the average handling time of the cases depends on a range of factors, such as case complexity, FR's investigation time and the need to allow time for representation, appeal, etc.
- 3.9 The PRP also understands that some cases which took longer time to close were carried forward from the early years of the regime when there was a lack of precedents for the MPFA's reference.
- 3.10 Members are aware of a case whereby the handling time was as long as 36 months. Within this period, it took 32 months altogether for investigation, case assessment and imposing disciplinary sanctions. While the FR completed the investigation within six months, it took the MPFA 15 months to assess the FR's investigation findings and 11 additional months to reach a decision

on the level of the penalty and finalise the Notices of Proposed Disciplinary Action. Although this case was relatively more complex than other cases, the PRP still considers that improvement in efficiency could have been achieved.

- 3.11 In another case, members observe that it took the MPFA seven months to assess the FR's investigation findings due to change of case officers. The PRP considers the time taken to assess the case to be unsatisfactory.
- 3.12 In addition, members are also made aware that despite an increase in approved headcount within the Enforcement Division, the number of case officers decreased during the current review cycle as a result of staff attrition and movement.

Recommendations

- 3.13 With the continued decrease of the backlog of cases from previous review cycles, the accumulation of experience in case closure and the streamlining of the internal approval process, the MPFA should endeavour to substantially reduce the handling time of cases in future review periods.
- 3.14 The PRP suggests that the MPFA have a more stringent management of case handling time. For example, it should develop a set of Key Performance Indicators ("KPIs") for case handling time in order to directly address this long-standing problem.
- 3.15 For the purpose of the MPFA's internal management analysis and future reporting to the PRP, it is also suggested that the statistics of the handling time should be broken down into different segments, such as –
- (a) The time taken for the MPFA to refer to a case to the relevant FR(s);
 - (b) The time taken for the relevant FR(s) to carry out the investigation; and
 - (c) The time taken for the MPFA to conduct assessment and impose disciplinary orders (if any).

- 3.16 It is believed that breaking down the handling time into different segments will enable the MPFA's management and the PRP to better keep track of progress of case closure and pinpoint problematic areas for improvement.
- 3.17 The MPFA is also advised to devise adequate measures to ensure a smooth transition in case handling caused by staff turnover.

Response from the MPFA

- 3.18 The MPFA welcomes the recommendations of the PRP and will endeavour to further enhance the case handling process.
- 3.19 Having the benefit of the PRP's observations and recommendations in previous Annual Reports and with experience garnered over the years since the implementation of the new statutory regulatory regime, the MPFA has stepped up sanctions against failure to comply with the conduct requirements under the MPFSO and the Guidelines including taking disciplinary actions against the non-compliant MPF intermediaries.
- 3.20 Among the 15 cases closed in the current review cycle, five cases resulted in disciplinary proceedings. The number of cases which resulted in disciplinary proceedings were higher than previous years.
- 3.21 There are various statutory procedures to comply with in disciplinary proceedings, including providing the MPF intermediary with the opportunity to make representation (30 days) and appeal (2 months).
- 3.22 Furthermore, almost all of the cases closed in the current review cycle required investigation by the relevant FR. This is different from previous years whereby a number of out-of-scope cases were closed at a preliminary stage.
- 3.23 Accordingly, the average handling time taken for the cases closed in the current review cycle was relatively longer.

- 3.24 The MPFA has internal procedures in place to monitor the case handling time, including FRs' investigation time and MPFA's handling time before and after referring a case to the relevant FR.
- 3.25 The MPFA will report the statistics with breakdown to the PRP in the future.

B. Enhancing the Consistency and Transparency of Disciplinary Actions

- 3.26 For the five substantiated cases (out of the 15 completed cases in the current review cycle) where disciplinary actions had been taken, the sanctions imposed ranged from a public reprimand to a suspension/ disqualification period spanning from 3 to 30 months.

Observations

- 3.27 The PRP reviewed four out of the five cases whereby disciplinary actions were taken. It is noted that they all involved certain aspects of dishonesty, such as forgery of signature, impersonating the client, misrepresentation, etc. However, different levels of penalties were imposed.
- 3.28 In determining the levels of penalties, we note that the MPFA made reference to similar cases handled by the SFC and the HKMA. A Guidance Manual was also in place for case officers to decide on whether to impose disciplinary orders. However, the Manual did not contain guidelines on the level of penalties to be imposed.

Recommendation

- 3.29 The PRP strongly suggests that the MPFA have a more defined set of guidelines in setting penalty levels based on the severity of the offences. This set of guidelines will ensure consistency in the levels of penalties imposed and fairness to the PIs/ SIs in future cases. There should also be better documentation about the MPFA's rationale in the level of penalty imposed.

- 3.30 The MPFA should also consider explaining to the industry, as well as the PIs and SIs concerned in a disciplinary case, the factors taken into consideration in determining the penalty for a particular case. Such explanation could be included in the press release (if any) and/or in the MPFA's communications with the industry. This should help the industry understand why similar breaches are subject to different levels of penalty.

Response from the MPFA

- 3.31 The MPFA welcomes the suggestions and is currently formulating guidance for imposing sanctions. The MPFA will also enrich the relevant publications or communications with the industry to increase transparency of its decisions.

C. Strengthening Communication with FRs

- 3.32 The PRP notes that the MPFA had a regular dialogue with the FRs in the current review cycle. These included three MIRC meetings with the FRs and three bilateral meetings with the IA during the current review cycle to follow up on the progress of investigations of various cases. Monthly progress reports were also circulated by FRs to the MPFA to ensure the case progress was made known to the MPFA.

Observation

- 3.33 The PRP notes that the MPFA regularly followed up with the relevant FR regarding the status of the investigation. However, it appears to the PRP that the MPFA could have taken more follow up actions to understand the difficulties encountered by the IA, particularly for cases with longer investigation time.

Recommendations

- 3.34 The MPFA and the relevant FR may wish to consider assessing whether the level of detail of the monthly status reports are adequate to keep both parties fully apprised of the status of each case.
- 3.35 The PRP also encourages the MPFA to take more proactive follow up actions on the cases being investigated by the relevant FR. The MPFA should continue to take the lead in following up on ongoing cases.
- 3.36 The PRP is of the view that further strengthening of communication between the MPFA and the relevant FR would benefit both parties. The MPFA is thus encouraged to have more regular meetings with the relevant FR such that open cases are followed up more proactively.

Response from the MPFA

- 3.37 Apart from regular meetings and monthly status reports, the MPFA and the relevant FR also have direct communications and discussions by other means such as phone calls where necessary. There is also sharing of information and views from time to time between the MPFA and the FRs for enhancing supervision and compliance culture in the industry.
- 3.38 The MPFA notes the PRP's recommendations and will explore different ways to further strengthen communication with the FRs.

D. Facilitating PIs' Supervision over SIs

- 3.39 The PRP notes that most cases in the current review cycle were self-reported by PIs to the MPFA. For these cases, the PRP understands that the PIs are informed of investigations being conducted on their SIs.
- 3.40 However, for the cases which were not self-reported, the PRP is concerned that PIs might not be fully aware of investigations being

conducted on their SIs.

- 3.41 In general, members are of the view that some cases of non-compliance could have been avoided if stronger internal control had been maintained by PIs.

Observations

- 3.42 In a case relating to forgery of signature, it was found that the PI concerned accepted SIs' submission of photocopied forms. In another case, some SIs distributed factually incorrect promotional materials to mislead clients. The PRP is of the view that these circumstances could have been avoided if the PIs had closer supervision over the activities of their SIs.
- 3.43 The PRP notes that compliance advice letters and reminder letters are often issued upon case closure for cases whereby no disciplinary actions are taken if deemed necessary. However, such letters were not issued to all PIs. In some cases, reminder letters were only issued to PIs if they are targets of investigation.
- 3.44 This may be a concern for non-self-reported cases, as it may be possible that the PIs are not aware of the case from start to finish.

Recommendations

- 3.45 For non-self-reported cases, the MPFA should inform PIs of cases against their SIs when appropriate, regardless of whether disciplinary actions are taken. This can enable the PIs to consider holistically the adequacy of its supervision on SIs and strengthen their measures to ensure compliance as necessary. In order to comply with the secrecy requirements in the MPFSO, any private information could be suitably redacted in the reminder letters to the PIs. PIs should also be reminded to keep the information confidential.
- 3.46 The MPFA should also step up its general compliance training efforts for the industry. For example, PIs should be reminded to consider the risks involved in accepting photocopied forms. SIs

must also first seek PIs' proper approval for the use of promotional materials. The MPFA may consider issuing circular letters and organising seminars, etc. in order to increase PIs' awareness of the potential risks.

- 3.47 It is also suggested that the MPFA should consider revisiting its closed cases to identify whether there is any concentration of complaints within certain PIs. It is recommended that, if necessary, the MPFA may issue advice to such PIs to remind them to improve compliance.
- 3.48 The PRP notes that the rationale for issuing reminder letters is to raise the overall standards of the industry and promote a culture of compliance. It is therefore further recommended that the practice of issuing reminder letters should be extended to all PIs of the SIs concerned, even if the PIs themselves are not subjects of investigation.

Response from the MPFA

- 3.49 The MPFA welcomes the PRP's recommendations and will explore all possible ways under the multi-regulator regime to facilitate PIs' understanding about misconduct by SIs and supervision over SIs.
- 3.50 With the benefit of experience gained, the MPFA has extended the practice of issuing a reminder letter to the PI in appropriate cases regardless of whether the PI was a subject of investigation or not. In order to promote compliance culture, the MPFA will continue to do so to alert the PI of any internal control issues identified.
- 3.51 The MPFA will also continue to organize training courses and issue circular letters where appropriate to increase PI's compliance awareness and remind them of any control risk areas to facilitate PI's implementation of appropriate internal controls for mitigating risk of misconduct by their SIs.

Chapter 4 : Way Forward

- 4.1 Looking forward, the PRP will continue its work on the review of completed cases to ensure adequacy of the internal procedures of the MPFA, and that the FRs consistently follow the relevant internal procedures and operational guidelines.
- 4.2 The PRP welcomes and attaches great importance to the views of the public and market participants on the work of the PRP. Comments relating to the PRP's work can be referred to the Secretariat of the PRP via the following channels² –

By post : Secretariat of the Process Review Panel in relation to
the Regulation of Mandatory Provident Fund
Intermediaries
Financial Services and the Treasury Bureau
24th Floor, Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

By email : enq@fstb.gov.hk

² Inquiries or comments not relating to the process review work of the MPFA should be made to the MPFA direct –

By post : Level 8, Tower 1, Kowloon Commerce Centre, 51 Kwai Cheong
Road, Kwai Chung, Hong Kong

By telephone : (852) 2918 0102

By fax : (852) 2259 8806

By email : mpfa@mpfa.org.hk

Chapter 5 : Acknowledgement

- 5.1 The PPR would like to express its gratitude to the MPFA for its assistance in facilitating the review work, and its co-operation in responding to the PRP's inquiries and recommendations.

**Process Review Panel in relation to
the Regulation of Mandatory Provident Fund Intermediaries
September 2019**