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## SFC reprimands and fines FWD Life Insurance Company (Bermuda) Limited \$2.4 million for regulatory breaches

8 Jan 2019

The Securities and Futures Commission (SFC) has reprimanded and fined FWD Life Insurance Company (Bermuda) Limited (FWD Life) \$2.4 million for failures in complying with the key personnel requirements under the SFC Code on MPF Products (MPF Code) and the Fund Manager Code of Conduct (Notes 1, 2 & 3).

The SFC found that FWD Life failed to ensure there were at least two key personnel who met the minimum five-year investment experience requirement in managing retirement funds or public funds under the MPF Code at all times.

Specifically, from December 2012 to November 2016, FWD Life had only one key personnel in place who met the minimum investment experience requirement. FWD Life only discovered it had insufficient key personnel when the Mandatory Provident Fund Authority made enquiries in January 2017 (Note 4).

The SFC also found that FWD Life failed to implement policies and procedures for the designation and monitoring of key personnel and to communicate to relevant staff members of their designation as key personnel. FWD Life's failure in this respect contributed to the duration of its breach of the MPF Code (Notes 5 & 6).

In deciding the disciplinary sanctions, the SFC took into account all circumstances, including:

- FWD Life's regulatory breaches lasted almost four years;
- FWD Life had engaged an independent reviewer to review the cause, extent and impact of its breach of the MPF Code, and the adequacy of its internal controls;
- FWD Life had no previous disciplinary record with the SFC;
- FWD Life had taken steps to implement written policies and procedures for the designation and monitoring of key personnel to ensure compliance with the MPF Code; and
- FWD Life's cooperation in resolving the SFC's concerns.

End

Notes:

1. FWD Life is currently licensed under the Securities and Futures Ordinance to carry on Type 9 (asset management) regulated activities.
2. FWD Life's business was acquired by Pacific Century Group in February 2013.
3. Paragraph 6.4 of the MPF Code provides that the investment manager must comply with the Fund Manager Code of Conduct issued by the SFC.
4. Paragraph 6.6(a) of the MPF Code requires the key personnel of the investment manager to possess at least five years investment experience managing pooled retirement funds or other public funds with reputable institutions. The expertise gained should be in the same type of investments as those for the pooled investment fund or constituent fund(s) of the MPF scheme seeking authorization.
5. Paragraph 6.6(d) of the MPF Code provides that the SFC must be satisfied with the overall integrity of the investment manager. Investment managers must provide reasonable assurance of the adequacy of its internal controls and the existence of written procedures, which should be regularly monitored by its senior management for updatedness and compliance.
6. Paragraph 1.2 of the Fund Manager Code of Conduct requires a fund manager to, among other things, maintain satisfactory internal controls and written compliance procedures which address all applicable regulatory requirements.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has reprimanded FWD Life Insurance Company (Bermuda) Limited (**FWD Life**) and fined it \$2,400,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that FWD Life:
  - (a) failed to ensure that there were at least two key personnel who met the minimum investment experience requirement of five years in managing pooled retirement funds or other public funds for the period from 1 December 2012 to 17 November 2016; and
  - (b) failed to put in place adequate policies and procedures to ensure compliance with the key personnel requirements in the SFC Code for MPF Products (**MPF Code**).

### Summary of Facts

3. FWD Life is the insurer, guarantor and investment manager of the FWD Life Capital Guaranteed Policy (**Policy**). The Policy is an approved pooled investment fund structured in the form of an insurance policy and authorised by the SFC on 19 October 2000<sup>1</sup>.
4. Paragraph 6.6(a) of the MPF Code requires the key personnel of an investment manager to possess at least five years investment experience managing pooled retirement funds or other public funds with reputable institutions. The expertise gained should be in the same type of investments as those proposed for the pooled investment fund or constituent fund(s) of the MPF scheme seeking authorization.
5. The SFC found that FWD Life failed to ensure that there were at least two key personnel who met the minimum investment experience requirement of five years in managing pooled retirement funds or other public funds at all times as required by the MPF Code.
6. From 1 December 2012 to 17 November 2016 (**Relevant Period**), FWD Life had only one key personnel in place who met the minimum five years investment management experience requirement.
7. The SFC also found that FWD Life did not communicate the role of key personnel to designated staff members nor the necessary investment experience required for the role. FWD Life failed to discover it had insufficient key personnel in place who met the minimum investment experience requirement until the Mandatory Provident Fund Authority made enquiries in January 2017.
8. In March 2017, FWD Life informed the SFC that it had appointed an existing full-time employee of FWD Life as its designated second key personnel, and

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<sup>1</sup> The Policy was available for investment to MPF scheme providers only and not to the public.

that this employee had met the minimum investment experience for key personnel since 18 November 2016.

*Inadequate policies and procedures*

9. Paragraph 6.4 of the MPF Code provides that the investment manager must comply with the Fund Manager Code of Conduct issued by the SFC.
10. Paragraph 1.2 of the Fund Manager Code of Conduct requires a fund manager to maintain satisfactory internal controls and written compliance procedures which address all applicable regulatory requirements.
11. The SFC found that FWD Life did not have any policies or procedures in place for the operation and monitoring of the key personnel requirements to ensure compliance with the MPF Code during the Relevant Period. FWD Life's failure to put in place such policies and procedures contributed to the duration of its breach of the MPF Code.

**Conclusion**

12. Having considered all the circumstances, the SFC is of the view that FWD Life is guilty of misconduct and its fitness and properness to carry on regulated activities have been called into question.
13. In deciding the disciplinary sanction set out in paragraph 1, the SFC has had regard to its Disciplinary Fining Guidelines and has taken into account all relevant circumstances, including:
  - (a) FWD Life's breach last almost four years;
  - (b) FWD Life's engagement of an independent reviewer to review the cause, extent and impact of its breach of the MPF Code, and the adequacy of its internal controls;
  - (c) FWD Life has no previous disciplinary record with the SFC;
  - (d) FWD Life has taken steps to implement written policies and procedures for the designation and monitoring of key personnel to ensure compliance with the MPF Code; and
  - (e) FWD Life's cooperation in resolving the SFC's concerns.