
STATEMENT OF DISCIPLINARY ACTION

The disciplinary action

1. The Securities and Futures Commission (**SFC**) has suspended the licence of Mr Chan Chi Ki (**Chan**) for a period of six months under section 194(1)(i)(B) of the Securities and Futures Ordinance.
2. The disciplinary action addresses Chan's failures in handling the accounts of a client (**Client**) at Phillip Commodities (HK) Limited and Phillip Securities (HK) Limited (collectively "**Phillip**") between December 2010 and November 2011. The SFC's investigation found that Chan had failed to carry on regulated activities diligently and compliantly, by:
 - (a) operating the Client's futures account without proper authorization; and
 - (b) failing to ensure that the Client's assets are properly accounted for and adequately safeguarded.

Summary of facts

Background

3. Investigation into Chan's conduct stemmed from a complaint by the Client. The Client alleged, among other things, that Chan had conducted unauthorized trades in her futures account at Phillip.

Discretionary trading without written authorization

4. The available evidence shows that, during the Relevant Period:
 - (a) there were a number of occasions where Chan made investment decisions for the Client and confirmed trades with her after execution via QQ or over the telephone; and
 - (b) Chan had, from time to time, reminded the Client to check her statements and had told her to make sure the figures therein were correct.
5. According to Phillip's records, the Client had never signed any written authorization to authorize any third party to operate her futures account. The Client did not raise any objections in relation to Chan's placing trades without her explicit instructions until August 2011.

Improper handling of client money

6. On 8 February 2011, the Client paid Chan RMB25,000 in exchange for the equivalent amount in Hong Kong dollars, for purposes of settling her subsequent purchase of certain shares on 14 February 2011. Chan withdrew \$28,800 from his bank account and deposited \$29,500 into the Client's securities account at Phillip on 11 February 2011.

Breaches and reasons

7. As a licensed person, Chan is required to comply with standards set out in the Code of Conduct¹. In particular:
 - (a) Paragraph 7.1(a)(ii) requires licensees to obtain written authorization prior to operating a client's account on a discretionary basis;
 - (b) General Principle (**GP**) 2 requires licensees to act with due skill, care and diligence, in the best interests of clients and the integrity of the market; and
 - (c) GP8 requires licensees to ensure that client assets are promptly and properly accounted for and adequately safeguarded.
8. It is evident that, during the Relevant Period, Chan had operated the Client's futures account on a discretionary basis without written authorization to do so, in breach of paragraph 7.1(a)(ii) of the Code of Conduct.
9. It is also evident that, Chan had carried out currency exchange on the Client's funds for settlement with his own personal funds. Although this appears to be a one-off incident and that there were no dishonest intentions or client losses involved, the SFC is concerned about the risks involved in such "acts of favour" for clients.
10. Segregation of trading and settlement functions is fundamental for the protection of clients' interests. In all circumstances, account executives should not personally be in possession of client money and must never mix client assets with personal funds.
11. Apart from breaching GP8 by failing to ensure adequate safeguard of client money, Chan's handling of the matter also reflects his lack of due care in conducting business activities as required by GP2.

Conclusion

12. Having considered all the circumstances, the SFC is of the view that Chan is not fit and proper to be licensed, and has decided to take the disciplinary action against Chan as described in paragraph 1.
13. In deciding the appropriate sanction, the SFC has taken into account all relevant circumstances including the fact that Chan is still licensed and serving clients at Phillip and his otherwise clean disciplinary record.

¹ Code of Conduct for Persons Licensed by or Registered with the SFC