

## Statement of Disciplinary Action

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended Mr Cheung Man Chit (**Cheung**), a former licensed representative of Emperor Securities Limited and Emperor Futures Limited (collectively, **Emperor**), for two years pursuant to section 194 of the Securities and Futures Ordinance.
2. The disciplinary action is taken because Cheung:
  - (a) submitted false client documents and information to Emperor, and stated in a client account opening document that he witnessed the client's signature when he did not do so;
  - (b) transferred client money through his related bank accounts and inputted incorrect information in Emperor's payment or deposit forms to facilitate the transfers;
  - (c) used a client's password to place trade orders in her online trading account with Emperor; and
  - (d) failed to inform the SFC and Emperor of his directorship and proprietorship of two companies owned by him.

### Summary of facts

#### *Submission of false client documents and information to Emperor*

3. General Principle 1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) requires a licensed person to act honestly, fairly, and in the best interests of his clients and the integrity of the market when conducting regulated activities.
4. General Principle 2 of the Code of Conduct requires a licensed person to act with due skill, care and diligence, and in the best interests of his clients in conducting business activities.
5. Emperor's internal policy required their staff to (i) ascertain the residence of clients during the account opening procedure, and (ii) ensure that all the information in the account opening document of a client is accurate and correct and the signatory on the document is the client.
6. Between May 2012 and March 2017, Cheung worked as a Customer Service Officer of the Investment & Customer Service Department of Emperor.
7. In April 2015, a client (**Client L**) of Cheung lodged a complaint with the SFC alleging that without her knowledge, her friend (**H**) had transferred \$300,000 from her account at Emperor to H's bank account in January 2014 (**\$300,000 Transfer**).

8. The SFC investigation found that:
  - (a) Cheung received two sets of client agreements from Client L and H in around August 2013 for the opening of Client L's accounts at Emperor, but submitted to Emperor the one received from H. Further, he falsely certified and claimed to have witnessed Client L's signing of the submitted client agreement.
  - (b) In around January 2014, Cheung received three payment forms authorising fund transfer from Client L to H, one from Client L and two from H. He submitted to Emperor the two payment forms received from H and not signed by Client L, one of which resulted in the \$300,000 Transfer which Client L alleged was not authorised by her.
  - (c) He handled and submitted to Emperor six other account documents of Client L which were not signed by her between November 2013 and June 2014.
9. In addition, the SFC found that Cheung provided his own addresses, and an email address he created, to state as the residential addresses and email address of another client (**Client Y**) in her client agreement and a change of particulars form which he submitted to Emperor.
10. The SFC is of the view that Cheung's conduct of submitting false client documents and information to his employers and falsely stating in a client account opening document that he witnessed the client's signature was dishonest, prejudiced the interests of his clients and employers, contravened the internal policy of Emperor, and was in breach of General Principles 1 and 2 of the Code of Conduct.

*Transfer of funds for clients*

11. Emperor's internal policy prohibited staff's handling of client money, and/or transfer of client money through staff's personal bank accounts or related bank accounts.
12. Between June 2014 and January 2017, the accounts of Client Y and another client (**Client C**) at Emperor recorded transfers totalling around \$3.2 million to/from Cheung's bank account or the bank account of a company solely owned by him (**Company U**) on 15 occasions. Ten of the 15 transfers were made pursuant to third party deposit/payment request forms (**Third Party Forms**) of the clients signed by Cheung as the handling account executive.
13. Cheung admitted that he helped the clients transfer money to/from the Mainland using his and Company U's bank accounts, and claimed that he did not receive any benefit for transferring money for the clients. He accepted that the money transferred from the Emperor accounts of the clients had been mingled with the money in his and Company U's bank accounts.
14. To secure Emperor's approval of the third party fund transfer requests of the clients and get around the need to provide supporting documents required under the firms' then policy, he falsely stated in the clients' Third Party Forms that they were directors of Company U, he and Client C were business partners, and the reason for payment was capital recovery by Company U.

15. Cheung's conduct in transferring clients' money through his related accounts contrary to the internal policy of Emperor has put his clients' interests at risk, in breach of his obligation to act with due skill, care and diligence, and in the best interests of his clients under General Principle 2 of the Code of Conduct. His fabrication of the requisite information in the Third Party Forms to circumvent Emperor's internal policy on approving third party transactions was dishonest, in breach of General Principle 1 of the Code of Conduct.

*Using a client's password to place trade orders in her online trading account*

16. Emperor's internal policy did not allow staff to use clients' passwords to log in clients' online trading accounts and operate the accounts.
17. Client C opened an option account at Emperor in May 2014. Based on the records of internet service providers, 84 orders were placed in her option account via internet from IP addresses subscribed by Cheung or situated at the offices of Emperor and his new employers<sup>1</sup> between June 2014 and August 2017.
18. Cheung stated that he placed orders for Client C via internet as a friend and did not receive any personal benefit from her. Client C only paid commission to Emperor for the trades.
19. Cheung's access to Client C's online trading account in breach of Emperor's policies could expose her to serious risks as his trading in her account could not be monitored by Emperor. Such conduct is another example of Cheung's failure to act with due skill, care and diligence and in the best interests of his client, as required under General Principle 2 of the Code of Conduct.

*Failure to inform the SFC and Emperor of directorship / proprietorship*

20. General Principle 7 and paragraph 12.1 of the Code of Conduct require a licensed person to comply with all regulatory requirements.
21. Section 3(1)(b) of the Securities and Futures (Licensing and Registration) (Information) Rules (**Information Rules**) requires an applicant for a licence to carry on a regulated activity to provide a description of any current directorship, partnership or proprietorship of the applicant and the dates of appointment, or commencement, of any such directorship, partnership or proprietorship.
22. Sections 4(2) and 4(5) of the Information Rules require a licensed person to notify the SFC if there is a change in the status of any directorships, partnerships or proprietorships of the licensed person and give a written notice of the change to the SFC within seven business days after the change takes place.
23. Emperor's internal policy required their staff to disclose any outside employment, including any directorship, and give notification of any update in their directorship and proprietorship of their own business to Emperor and the SFC within three and seven business days.

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<sup>1</sup> Cheung worked at Freeman Securities Limited and Freeman Commodities Limited after leaving Emperor.

24. Cheung has been the sole proprietor of Company U and the director of another company since their incorporation in around 2010 and January 2018. He did not report to the SFC his directorship and proprietorship of the two companies in his licence application and throughout the period when he was licensed with the SFC.
25. Further, Cheung did not notify Emperor of his proprietorship of Company U during his accreditation with the firms pursuant to their internal policy. Such failure was not in the best interests of clients as his employers were prevented from monitoring and supervising clients' account operation relating to Company U, and the clients were deprived of protection against the risk of improper activities carried out in their accounts through Cheung's linkage with Company U.
26. Cheung's failure to notify Emperor and/or the SFC of his directorship and proprietorship of the two companies owned by him constituted breaches of sections 3(1)(b), 4(2) and 4(5) of the Information Rules and General Principles 2 and 7 and paragraph 12.1 of the Code of Conduct.

### **Conclusion**

27. The SFC is of the view that Cheung is guilty of misconduct and his fitness and properness to carry on regulated activities have been called into question.
28. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including:
  - (a) Cheung's conduct in question spanned over a prolonged period of time, covering over four years, and involved multiple clients;
  - (b) Cheung's submission of false client documents and information to his former employers, Emperor, and false statement of having witnessed a client's signature in her client agreement, demonstrate his failure to act with due care and diligence and cast doubt on his integrity and reliability as a licensed person;
  - (c) the ability to carry on regulated activities honestly and act in clients' best interests is fundamental to the fitness and properness of a licensed person;
  - (d) a deterrent message needs to be sent to the industry that similar breaches are not acceptable; and
  - (e) Cheung has no previous disciplinary record with the SFC.