

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. Pursuant to section 194 of the Securities and Futures Ordinance (**SFO**), the Securities and Futures Commission (**SFC**) has:
 - (a) reprimanded and fined Jinrui Futures (Hong Kong) Limited (**Jinrui Futures**)¹ \$4,800,000;
 - (b) banned Shen Chun (**Shen**)², a former executive director and responsible officer of Jinrui Futures, from re-entering the industry for 6 months from 6 February 2023 to 5 August 2023; and
 - (c) suspended Jiang Xiaoqing (**Jiang**)³, a responsible officer of Jinrui Futures, for 5 months from 6 February 2023 to 5 July 2023.
2. The SFC found that from April 2015 to June 2018 (**Relevant Period**), Jinrui Futures failed to:
 - (a) perform adequate due diligence on the customer supplied systems (**CSSs**)⁴ used by clients for placing orders, and assess and manage the associated money laundering and terrorist financing (**ML/TF**) and other risks;
 - (b) conduct proper due diligence on clients before account opening; and
 - (c) conduct adequate enquiries and sufficient scrutiny on clients' deposits which appear unusual and/or suspicious and inconsistent with the clients' declared net worth.
3. The SFC considers that Jinrui Futures' failures were partly attributable to Shen's and Jiang's failures to discharge their duties as responsible officers and members of the senior management of Jinrui Futures.

Summary of Facts

A. *Background*

4. The SFC received a complaint against various licensed corporations (**LCs**) for allowing clients to place orders to their broker supplied system (**BSS**)⁵ through

¹ Jinrui Futures is licensed to carry on Type 2 (dealing in futures contracts) regulated activity under the SFO.

² Shen was accredited to Jinrui Futures and approved to act as its responsible officer for Type 2 (dealing in futures contracts) regulated activity from September 2008 to May 2018. Shen is currently not licensed by the SFC. Shen was Jinrui Futures' Manager-In-Charge (**MIC**) of the Overall Management Oversight function from September 2008 to May 2018.

³ Jiang has been accredited to Jinrui Futures and approved to act as its responsible officer for Type 2 (dealing in futures contracts) regulated activity since June 2009. Jiang has been Jinrui Futures' MIC of the (i) Operational Control and Review and AML/CFT functions since March 2016, and (ii) Compliance function from March 2016 to July 2019.

⁴ CSSs are trading software developed and/or designated by the clients that enable them to conduct electronic trading through the internet, mobile phones and other electronic channels.

Xinguanjia (**XGJ**)⁶. The complainant alleged that XGJ permitted the LCs' clients to create sub-accounts under their accounts maintained with the LCs, and the clients had solicited investors in Mainland China to trade through the sub-accounts via XGJ without having to open separate securities accounts with the LCs in Hong Kong.

5. Jinrui Futures is one of the LCs subject to the complaint. In addition, the SFC received complaints from two complainants who alleged to have opened sub-accounts under the main accounts of two clients of Jinrui Futures and suffered losses from trading futures contracts via XGJ.

6. Between April 2015 and October 2018, Jinrui Futures permitted 74 CSSs (including XGJ) to be connected to its BSS through application programming interface (**API**)⁷ and 258 clients had used designated CSSs to place orders for a total of 10,450,957 futures trades to Jinrui Futures' BSS.

B. Failure to perform adequate due diligence on the CSSs and assess and manage the associated ML/TF and other risks

7. Before allowing its clients to connect their CSSs to its BSS, Jinrui Futures should have conducted sufficient due diligence to understand the operation and features of each CSS, and properly assessed and managed the risks associated with the use of such CSSs. However, the SFC found that during the Relevant Period:

(a) Jinrui Futures did not have any written policy on how it should perform due diligence on the CSSs or approve their use by clients.

(b) Jinrui Futures had not conducted any or adequate due diligence on the CSSs before allowing them to be connected to its BSS:

(i) Jinrui Futures was unable to provide the SFC with system due diligence and testing results of each of the CSSs before it was put in service.

(ii) Clients were required to submit API application documents⁸ in order for their CSSs to be connected to Jinrui Futures' BSS for order placing. However, all the API application documents obtained from four selected clients (**Selected Clients**)⁹ were dated after the dates when the

⁵ BSSs are trading facilities developed by exchange participants or vendors that enable the exchange participants to provide electronic trading services to investors through the internet, mobile phones, and other electronic channels.

⁶ XGJ was a CSS developed and/or provided by Hengxin Software Limited.

⁷ API is a set of functions that allows applications to access data and interact with external software components or operating systems.

⁸ API application documents include:

(a) API undertaking signed by the clients, in which the clients undertook, among other things: (i) not to allow others to use their accounts or to place trades in their accounts; and (ii) not to conduct transactions that are not in compliance with the regulatory requirements.

(b) API due diligence form filled in and signed by the clients, in which the clients were required to state, among other things: whether (i) they have opened sub-accounts via their CSSs; (ii) they are the beneficial owners of the accounts; and (iii) they have conducted transactions that are not in compliance with the regulatory requirements.

(c) API certificate provided by the supplier of Jinrui Futures' BSS (**BSS Supplier**).

⁹ The SFC reviewed four Selected Clients who used CSSs for placing orders. Three of them were top clients of Jinrui Futures who traded the most futures contracts via CSSs. Two of them (including one of the selected top clients) were chosen as Jinrui Futures received complaints against them.

Selected Clients had started using the CSSs. In any event, the API application documents do not evince any system due diligence or testing conducted by Jinrui Futures before each CSS was put in service.

- (iii) Jiang admitted that Jinrui Futures might not have performed any due diligence on the CSSs between 2015 and 2017. She said that the Information Technology department of Jinrui Futures was of the view that the BSS Supplier would have performed testing on the CSSs. However, the BSS Supplier stated that it did not conduct any due diligence or testing on the CSSs.
 - (iv) Shen who gave final approval for the CSSs' connection stated that he did not conduct any due diligence on the CSSs. He would endorse the CSSs' connection if his subordinates approved it. However, his subordinates did not conduct proper due diligence on the CSSs either.
8. Without thorough knowledge of the features and functions of the CSSs, Jinrui Futures was not in a position to properly assess the ML/TF and other risks associated with the use of the CSSs and implement appropriate measures and controls to mitigate and manage such risks.
9. In the absence of proper control over the use of CSSs by its clients, Jinrui Futures has exposed itself to the risks of improper conduct such as unlicensed activities, money laundering, nominee account arrangement and unauthorised access to client accounts.
10. Jiang and Shen were Jinrui Futures' senior management personnel who approved the CSSs. They failed to take adequate steps to ensure that Jinrui Futures had:
- (a) conducted adequate due diligence on the CSSs before allowing them to be connected to Jinrui Futures' BSS and used by the clients for placing orders; and
 - (b) properly assessed the ML/TF and other risks associated with the use of the CSSs by Jinrui Futures' clients and implemented appropriate measures and controls to mitigate and manage such risks.

C. Failure to conduct proper due diligence on clients before account opening

11. Jinrui Futures' account opening manual requires its staff to conduct anti-money laundering investigations on clients before opening the clients' accounts, including identifying whether the clients are politically exposed persons or under existing terrorist and sanction lists.
12. Jinrui Futures engaged a screening system since 24 March 2015 to screen its clients against terrorist and sanction designations and whether the client is a politically exposed person (**Screening**).
13. The SFC found that Jinrui Futures failed to comply with its account opening manual and did not perform Screening on the Selected Clients during the account opening process. The Screening was only performed 3 to 34 months after account opening.
14. The SFC also found that Jiang, as the senior management member responsible for approving account opening documentation and ensuring that Jinrui Futures' staff

conduct anti-money laundering investigation on clients before opening clients' accounts, failed to set appropriate standards and ensure adherence to procedures by Jinrui Futures.

- D. Failure to conduct adequate enquiries and sufficient scrutiny on clients' deposits which appear unusual and/or suspicious and inconsistent with the clients' declared net worth*
15. The SFC reviewed the fund movements of the Selected Clients' accounts and found the following anomalies:
- (a) Some of the deposits made into the Selected Clients' accounts were incommensurate with their financial profiles.
 - (b) Some of these deposits were inter-account transfers from other clients of Jinrui Futures to the Selected Clients. A number of the transferors made deposits to more than one Selected Client. The Selected Clients only provided simple and similar reasons for the deposits.
16. Although Jinrui Futures performed certain ongoing due diligence or follow-up enquiries on the Selected Clients, the enquiries made were inadequate and did not satisfactorily explain the suspicious transactions:
- (a) The first deposit made into a Selected Client's account was nearly twice the amount of her total declared asset but there was no evidence that enquiry was made in relation to the deposit.
 - (b) Jinrui Futures approved third party deposits to some of the Selected Clients' accounts even though the clients provided no explanations for the third party deposits and their relationship with the third parties.
 - (c) One of the Selected Clients' account was inactive in 2017 and there were suddenly frequent deposits of significant amounts made into her account from March to May 2018. Although Jinrui Futures' policy stated that an idle account which suddenly becomes active for unknown reason and a large number of transactions occur in a short period of time was a suspicious indicator, there was no evidence that any enquiry was made about these deposits.
 - (d) Contrary to its policies and procedures, Jinrui Futures failed to provide records of the telephone enquiries it allegedly made with the Selected Clients and supporting documents to verify the Selected Clients' relationship with the third parties.
 - (e) The same third parties had made deposits to the Selected Clients but no enquiry was made about these deposits.
 - (f) Jinrui Futures claimed that it had prepared reports which recorded its customer due diligence or follow-up enquiries performed annually on all clients by reference to their monthly trading volumes, transaction amounts, profits and losses, third party deposits/withdrawals. However, these reports were only prepared in 2018 as a look-back review on clients with active trading activities and/or who used XGJ between 2016 and 2018. Further, Jinrui Futures did not have documents to support the findings stated in these reports.

- (g) Jinrui Futures' internal investigation after the Relevant Period confirmed that some of its clients' deposits and withdrawals were incommensurate with the clients' financial profile.
17. Shen and Jiang were the senior personnel responsible for reviewing and approving inter-account transfers. They failed to conduct, and/or ensure that Jinrui Futures' staff conduct, adequate enquiries and sufficient scrutiny on clients' deposits which appear unusual and/or suspicious and inconsistent with the clients' declared net worth. In relation to some of the inter-account transfers approved by them, they failed to obtain supporting documentation to verify the reasons for the fund transfers and/or enquire with the Selected Clients their relationship with the third parties.

The SFC's findings

18. Jinrui Futures' failures set out above constitute a breach of:
- (a) General Principle (**GP**) 2 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**), which requires an LC to act with due skill, care and diligence, in the best interests of its clients and integrity of the market in conducting its business activities.
 - (b) GP 3 and paragraph 4.3 of the Code of Conduct, which provide that an LC should have and employ effectively the resources and procedures which are needed for the proper performance of its business activities and have internal control procedures and operational capabilities which can be reasonably expected to protect its operations and clients from financial loss arising from theft, fraud, and other dishonest acts, professional misconduct or omissions¹⁰.
 - (c) Section 23 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AMLO**) and paragraph 2.1 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (**AML Guideline**), which require an LC to mitigate the risks of ML/TF and prevent contravention of any client due diligence and record keeping requirements under the AMLO. To ensure compliance with this requirement, the LC should:
 - (i) establish and implement adequate and proper internal anti-money laundering and counter-financing of terrorism (**AML/CFT**) policies and procedures pursuant to paragraph 2.2 of the AML Guideline; and
 - (ii) assess the risks of any new products and services (especially those that may lead to misuse of technological developments or facilitate anonymity in ML/TF schemes) before they are introduced and ensure appropriate additional measures and controls are implemented to mitigate and manage the associated ML/TF risks pursuant to paragraph 2.3 of the AML Guideline.

¹⁰ Section VIII of the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission also provides that LCs shall establish and maintain effective policies and procedures to ensure the proper management of risks to which the firm and its clients are exposed.

- (d) Section 5(1)(b) of Schedule 2 to the AMLO and paragraph 5.1(b) of the AML Guideline, which require an LC to continuously monitor its business relationship with the clients by monitoring their activities to ensure that they are consistent with its knowledge of the clients and the clients' nature of business, risk profile and source of funds.
 - (e) Section 5(1)(c) of Schedule 2 to the AMLO and paragraphs 5.1(c), 5.10 and 5.11 of the AML Guideline, which require an LC to identify transactions that are complex, large or unusual or patterns of transactions that have no apparent economic or lawful purpose, make relevant enquiries to examine the background and purpose of the transactions, document the enquiries made (and their results), and report the findings to the Joint Financial Intelligence Unit where there is any suspicion of ML/TF. Pursuant to paragraph 7.11 of the AML Guideline, where a transaction is inconsistent in amount, origin, destination, or type with a client's known, legitimate business or personal activities, the transaction should be considered as unusual and the LC should be put on alert.
 - (f) Section 6(1) of Schedule 2 to the AMLO and paragraph 4.18.1 of the AML Guideline, which require an LC to perform client due diligence measures when a transaction takes place which is by virtue of the amount or nature of the transaction, unusual or suspicious, or is not consistent with the LC's knowledge of the client or the client's business or risk profile, or with its knowledge of the source of the client's funds.
 - (g) Paragraph 4.7.1 of the AML Guideline requires an LC to complete the customer due diligence process before establishing any business relationship or before carrying out a specified occasional transaction.
 - (h) Paragraph 6.22 of the AML Guideline states that a comprehensive ongoing screening of an LC's complete customer base is a fundamental internal control to prevent terrorist financing and sanction violations. This should be achieved by screening customers against current terrorist and sanction designations at the establishment of the relationship.
19. Jinrui Futures' breaches were partly attributable to Shen's and Jiang's failures to discharge their duties as responsible officers and members of the senior management of Jinrui Futures, including their failures to:
- (a) ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by Jinrui Futures, in breach of GP 9 of the Code of Conduct; and
 - (b) properly manage the risks associated with the business of Jinrui Futures, in breach of paragraph 14.1 of the Code of Conduct.

Conclusion

20. Having considered all relevant circumstances, the SFC is of the opinion that Jinrui Futures is guilty of misconduct and its fitness and properness to carry on regulated activities have been called into question.
21. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all of the circumstances, including:

- (a) Jinrui Futures' failures to diligently monitor its clients' activities and put in place adequate and effective AML/CFT systems and controls are serious as they could undermine public confidence in, and damage the integrity of, the market;
- (b) a strong deterrent message needs to be sent to the market that such failures are not acceptable;
- (c) Jinrui Futures, Shen and Jiang cooperated with the SFC in resolving the SFC's concerns; and
- (d) Jinrui Futures, Shen and Jiang have otherwise clean disciplinary records with the SFC.