
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Richard Charles Heyes (**Heyes**), a former responsible officer (**RO**), Manager-In-Charge (**MIC**) of Key Business Line, board member and Head of Pan-Asia Equities of Citigroup Global Markets Asia Limited (**CGMAL**), from re-entering the industry for 5 years from 15 September 2025 to 14 September 2030 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action follows the SFC's earlier sanctions against CGMAL for serious regulatory breaches and internal control failures in relation to issuance of indications of interest (**IOIs**) and client facilitation activities by its Cash Equities business, which included the Equities Sales Trading Desk, Programme Trading Desk, Electronic Execution Desk, Multi-Product Trading Team and Facilitation Desk (collectively, the **Desks**), over a 10-year period from 2008 to 2018¹.
3. The SFC is of the view that CGMAL's breaches and failings were attributable to Heyes' failure to discharge his duties as an RO, MIC and a member of CGMAL's senior management.

Summary of Facts

Heyes' role at CGMAL

4. Heyes was licensed to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 4 (advising on securities) and Type 7 (providing automated trading services) regulated activities under the SFO. He was accredited to CGMAL as a licensed representative from 30 March 2012 and approved as its RO from 15 October 2013 to 1 July 2020. He is currently not licensed by the SFC.
5. Before Heyes left CGMAL in July 2020, he was also:
 - (a) the Head of Pan-Asia Equities of CGMAL and its affiliates (**Citigroup**) since April 2011²;
 - (b) a member of CGMAL's board of directors between 13 May 2014 and 1 July 2020; and
 - (c) CGMAL's MIC of Key Business Line – Equities from 12 July 2017 to 1 July 2020.

¹ CGMAL was reprimanded and fined \$348.25 million by the SFC. Please refer to the SFC's press release dated 28 January 2022.

² Heyes was appointed as the Head of Pan-Asia Equities when he was employed by CGMAL's affiliate in Japan. He relocated to Hong Kong in April 2012 and continued to run Citigroup's Pan-Asia Equities business until July 2020.

Mislabeled IOIs

6. From 2008 to 2018, the Equities Sales Trading Desk sent IOIs tagged as “Natural”, “In Touch With” and/or “P:1” to clients when there was no genuine client interest or specific client that CGMAL was in touch with (**Mislabeled IOIs**)³. This was contrary to the relevant industry guidelines that CGMAL claimed to have adopted⁴.
7. Contemporaneous correspondence revealed that Heyes should have known that it was the practice of his subordinates to advertise facilitation flow as natural flow using Mislabeled IOIs. Nonetheless, such dishonest conduct subsisted under his watch.
8. Further, a number of clients had complained about the quality and accuracy of CGMAL’s IOIs and / or emphasised the importance of accuracy around IOIs in meetings with the heads and members of the Desks. Whilst these complaints were recorded in writing and sent to Heyes as one of the recipients on a wide distribution list, he claimed that he did not read the relevant reports at the material time. Consequently, he did not take any step to investigate and address the client complaints, and therefore no step was taken to stop the dissemination of Mislabeled IOIs.
9. Heyes’ neglect and inaction were serious. They allowed the Equities Sales Trading Desk’s intentional dissemination of Mislabeled IOIs, which was inconsistent with the fundamental principles of being honest with clients and treating clients fairly, to take hold. The SFC is of the view that Heyes has failed to:
 - (a) act with due skill, care and diligence, and in the best interests of CGMAL’s clients and the integrity of the market, in breach of General Principle 2 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**);
 - (b) supervise diligently members and heads of the Desks, in breach of paragraph 4.2 of the Code of Conduct; and
 - (c) ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by CGMAL and properly manage the risks associated with its business, in breach of General Principle 9 and paragraph 14.1 of the Code of Conduct.

³ The Mislabeled IOIs were generated with reference to certain percentage of the average daily volumes of selected blue-chip stocks in the market. The purpose was to provoke client enquiries with a purported belief that traders would be able to find natural opposite flows to cross with the client order given the active trading of the stocks and the size of CGMAL’s trading platform. The Facilitation Desk would step in to provide liquidity when traders failed to source natural liquidity upon client enquiry.

⁴ Since early 2017, CGMAL represented to clients that the AFME/IA Framework for Indications of Interest (**AFME Framework**) issued by the Association for Financial Markets in Europe and the Investment Association was adopted in classifying its IOIs. According to the AFME Framework, “P:1” or “In Touch With” IOIs could be issued where there was a reasonable expectation of interest from a specific client and resulting trades were expected to be of a riskless nature.

Misrepresentation and non-disclosure to conceal the principal nature of facilitation trades

10. From 2014⁵ to 2018, it was the practice of the heads and members of the Desks to make misrepresentations to clients about the source of liquidity, or refrain from disclosing the fact that CGMAL would be acting as principal, when executing facilitation trades.
11. Heyes ought to have learnt from emails addressed or forwarded to him by his subordinates that the traders were misrepresenting facilitation trades as agency trades to clients in order to boost CGMAL's Equities business⁶. However, as he failed to take note of the relevant emails, the traders' dishonest malpractice went unchecked.
12. The SFC found that Heyes neglected and failed to properly discharge his managerial responsibility. While exerting significant pressure on the traders to solicit more business from clients and increase CGMAL's market share, Heyes failed to be vigilant for telltale signs that the Desks were achieving this by dishonest means. His serious neglect allowed his subordinates' misconduct to linger on and enabled a culture of chasing revenue at the expense of client interests and basic standards of honesty to take root within CGMAL.
13. This is a further demonstration that Heyes has breached General Principles 2 and 9 and paragraphs 4.2 and 14.1 of the Code of Conduct as set out in paragraph 9 above.

Heyes' responsibilities for CGMAL's internal control failures

14. The prevalence of the misconduct among the Desks over a prolonged period indicates that there were serious and systemic lapses across the Desks and CGMAL's controls framework. Specifically, before November 2018, CGMAL failed to:
 - (a) put in place any policies or controls to monitor the issuance of "In Touch With" and "P:1" IOIs and ensure that such IOIs were backed by specific client interest;
 - (b) have adequate internal guidelines and enforce them in relation to pre-trade disclosure of and obtaining client consent for facilitation trades. Instead, it deliberately excluded the requirement for obtaining prior client consent for facilitation trades when revising its compliance guidelines in 2018;
 - (c) implement effective compliance monitoring in respect of its facilitation activities to ensure that traders had made pre-trade disclosure of CGMAL's principal capacity and obtained clients' prior consent;
 - (d) provide training to traders on IOIs and pre-trade consent for facilitation activities;

⁵ The SFC has not reviewed any facilitation trades prior to 2014, as CGMAL no longer retained audio records for such period.

⁶ Clients generally prefer transactions on an agency basis (i.e. natural liquidity) over facilitation. By misrepresenting a facilitation trade as an agency trade or refraining from informing the client about the involvement of the Facilitation Desk, the traders could avoid "losing a trade" to a competitor of CGMAL.

- (e) record and monitor communications and ensure sufficient segregation between agency and facilitation desks; and
 - (f) identify and rectify system errors that had led to the sending of erroneous post-trade FIX⁷ messages to clients, which incorrectly indicated that CGMAL acted in an agency capacity when in fact it acted as principal.
15. Heyes had a number of opportunities to identify and rectify CGMAL's internal control failures since at least 2014:
- (a) In July 2014, Heyes attended a roundtable meeting with the SFC on behalf of CGMAL, during which attendees' attention was drawn to common deficiencies found in client facilitation activities in the market, including missing explicit client consent and lack of independent checking of client consent.
 - (b) Following the roundtable meeting, CGMAL conducted a gap analysis which identified that, instead of obtaining explicit client consent, the Equities Sales Trading Desk would send "standard disclaimers"⁸ to clients where the client's order was facilitated. The gap analysis was sent to Heyes.
 - (c) In late 2014, the SFC conducted a limited review of the business of CGMAL, which revealed some deficiencies in (among other things) CGMAL's operational controls on issuance of IOIs⁹. In January 2015, the SFC set out its concerns in a management letter addressed to Heyes in his capacity as CGMAL's RO.
 - (d) On 14 February 2018, the SFC issued a circular to licensed corporations on client facilitation (**Circular**) to remind intermediaries that when they assume a risk-taking principal position in client facilitation activities, the nature of the trades should be disclosed to clients and their prior consent obtained so that they would be fully aware of the inherent conflicts of interest. The Circular also states that IOIs should only be disseminated when they are based on a genuine client or proprietary intent to trade, they should provide sufficient details, and controls and monitoring should be implemented to ensure they are accurate and updated in a timely manner.
 - (e) The Circular was reported to the board of CGMAL, of which Heyes was a member, as a "*material regulatory change impacting business*". Heyes' subordinates conducted a further gap analysis, which:
 - (i) identified that CGMAL had no framework in place in respect of IOI dissemination practices and controls; and

⁷ Financial Information eXchange (**FIX**) is an electronic communications protocol for the international real-time exchange of securities transaction information.

⁸ The "standard disclaimers" were along the line "*one or more affiliates of Citi may have acted on either partially or fully principal basis*" (**Disclaimer**).

⁹ The issues identified in the SFC's limited review in 2014 were not related to Mislabelled IOIs.

- (ii) wrongly claimed that the Desks' practice of sending the Disclaimer addressed the consent requirement for facilitation activities in the Circular.
- 16. Notwithstanding the above, Heyes failed to ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by CGMAL, including ensuring that adequate policies and systems controls in relation to IOIs and facilitation activities were in place, and that proper training had been provided to traders. This demonstrates that he was negligent in discharging his management duties and in breach of:
 - (a) General Principles 2 and 9 and paragraph 14.1 of the Code of Conduct as set out in paragraph 9 above;
 - (b) paragraphs 4 and 5 of Part VII of the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC (**Internal Control Guidelines**), which require that the management of a licensed corporation establish and maintain policies and procedures to minimize conflicts of interest and ensure prior disclosure of the firm's interest in transactions with clients; and
 - (c) paragraph 4 of Part V of the Internal Control Guidelines, which requires the management of a licensed corporation, in conjunction with staff performing the compliance function, establish, maintain and enforce effective compliance procedures.

Conclusion

- 17. Having considered all relevant circumstances, the SFC concluded that Heyes has failed to discharge his duties as an RO, an MIC, a board member and a member of the senior management of CGMAL, and CGMAL's misconduct (as set out in the SFC's press release dated 28 January 2022) was attributable to neglect on his part, and should be regarded as misconduct on his part under section 193(2)(a) of the SFO.
- 18. The SFC is of the opinion that Heyes is guilty of misconduct and his fitness and properness as a regulated person has been called into question.
- 19. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including:
 - (a) Heyes' neglect in discharging his management and supervisory responsibilities was serious, thereby enabling CGMAL's grave internal control failures and regulatory breaches to prevail for over 10 years;
 - (b) despite having been in the industry for a considerable period of time, his conduct fell short of the standards expected of an RO, an MIC, a board member and a member of the senior management of a licensed corporation;
 - (c) it is necessary to send a clear and strong message to the industry that the SFC will not tolerate misconduct such as Heyes'; and

- (d) Heyes' cooperation with the SFC in accepting the disciplinary action and withdrawing his appeal to the Securities and Futures Appeals Tribunal and his otherwise clean disciplinary record.