STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Lui Pak Tong[1] (also known as Patrick Lui) (**Lui**), a former licensed representative and investment analyst of Thunder Capital Limited[2] (**Thunder**), from re-entering the industry for life and fined him HK$17.43 million pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).

2. The SFC found that during the period from September 2017 to June 2020 (**Relevant Period**):

   (a) Lui caused: (i) a segregated portfolio (**Segregated Portfolio**) of a fund managed by Thunder (**Fund**) to extend five unsecured loans totalling HK$22.5 million (**Loans**) to a company under his control (**Company**), and (ii) a substantial portion of the Loan proceeds to be transferred to himself or persons connected with him; and

   (b) when recommending to Thunder's Investment Committee (**Investment Committee**) that the Segregated Portfolio extend the Loans to the Company, Lui failed to disclose to the Investment Committee the conflicts of interest arising from his involvement in the Company and failed to ensure fair treatment of the Segregated Portfolio and its three investors (**Investors**).

3. The relevant regulatory requirements are set out in the **Appendix**.

Summary of facts

A. The Fund

4. The Fund was incorporated in March 2017 under the laws of the Cayman Islands, and the Segregated Portfolio was established under the Fund. The Fund had three directors, including Lui's wife.

5. In July 2017, the Fund appointed Thunder as the investment manager to manage and invest the Segregated Portfolio's assets. Between July 2017 and July 2018, the Investors invested approximately US$3.2 million (around HK$24.89 million) in the Segregated Portfolio.

6. According to the quarterly reports prepared by the Fund's custodian, the Segregated Portfolio's net asset value declined from approximately US$3.19

[1] Lui was accredited to Thunder as a licensed representative for Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities under the SFO between 25 July 2017 and 31 August 2020. Lui is currently not licensed by the SFC.
[2] Thunder changed its name to Yupei Fortune Capital Limited in February 2021. Its licence with the SFC was revoked on 31 July 2024.

million (around HK$24.81 million) in September 2017 to approximately US$37,515 (around HK$292,000) in September 2020. In November 2020, the Fund's board of directors resolved to deregister the Fund.

B. The Loans

Loan agreements

7. Between September 2017 and May 2020, the Segregated Portfolio entered into five loan agreements and three loan renewal agreements with the Company (collectively, **Loan Agreements**), providing a total loan amount of HK$22.5 million.

8. Under each Loan Agreement, the Company was required to repay the Loan within 24 months from the effective date, with interest at 12% per annum. The total interest payable for the Loans amounted to HK$9.72 million. No collateral or guarantee was required from the Company.

Approval for extension of the Loans

9. Lui recommended to the Investment Committee that the Segregated Portfolio extend the Loans to the Company, which purported to engage in blockchain development business.

10. The Investment Committee discussed the investment proposal with Lui, considered the Company's due diligence materials he provided, and reviewed his analyses of two other potential investment opportunities before approving the Loans. Lui did not disclose to the Investment Committee about his involvement in the Company.

Movements of the proceeds

11. Fund tracing revealed that after receiving the HK$22.5 million Loan proceeds, the Company transferred, either directly or through a director who was a nominee of Lui's (**Nominee Company Director**), HK$20.5 million thereof to Lui or persons connected with him, including his wife. Fund tracing also revealed that the Company used approximately HK$2 million to make interest payments under the Loans to the Segregated Portfolio.

Default of the Loans and outstanding interests

12. The Company never repaid the Loans and the Segregated Portfolio only received HK$5.07 million in interest payments from the Company.

13. In other words, of the HK$22.5 million Loan proceeds, the Segregated Portfolio only received HK$5.07 million from the Company and lost the remaining HK$17.43 million, which amount was pocketed by Lui and persons connected with him.

C. Lui's control of Thunder, the Fund and the Company

14. The SFC's investigation found that Lui effectively controlled all of Thunder, the Fund and the Company:

Thunder

(a) Thunder was one of several business ventures established and led by Lui with his former colleagues (**Former Colleagues**). The Former Colleagues followed Lui's directions in their business ventures because Lui had more investment experience and a more dominant presence.

(b) Between January 2016 and December 2017, Lui's wife was named as Thunder's sole shareholder and director. In December 2017, she transferred all her shares in Thunder to Thunder Financial Group Limited (**TFGL**), a company she ultimately owned. Lui served as TFGL's Chief Executive Officer. TFGL sold all its shares in Thunder to an unrelated third party in September 2020.

(c) Despite his title as investment analyst, Lui had actual authority at Thunder and made all investment decisions for the Fund. The Investment Committee members and responsible officers also reported directly to Lui.

The Fund

(d) Apart from Lui's wife, the Fund's two other directors were nominees recruited or appointed at Lui's instructions. Neither of them took part in the Fund's daily operations.

The Company

(e) The Company was under Lui's control and of questionable commercial substance. Of its two directors, the Nominee Company Director was the wife of one of the Former Colleagues and had been appointed at Lui's direction. She had no experience in the financial industry or in blockchain technology, and had no knowledge of the Company. She acted solely on instructions from the Former Colleague, who in turn received instructions from Lui. The Company's other director was an individual who had previously provided IT support at Thunder's office premises.

(f) It was unclear what business activities, if any, the Company had undertaken, or whether and how it intended to develop blockchain technology in the manner represented in the due diligence materials provided by Lui.

D. Conclusion

15. The SFC is of the view that during the Relevant Period, Lui failed to act honestly, fairly and in the best interest of the Fund, and failed to avoid, manage and minimise conflicts of interest by:

(a) causing: (i) the Segregated Portfolio to make the Loans to the Company, and (ii) a substantial portion of the Loan proceeds to be transferred to himself or persons connected with him; and

(b) failing to disclose to the Investment Committee the conflicts of interest arising from his involvement in the Company and to ensure the fair treatment of the Segregated Portfolio and the Investors.

16. Lui's conduct:

    (a) casts serious doubts on his character and reliability, as well as his ability to carry on regulated activities competently, honestly and fairly, thereby calling into question his fitness and properness to be a licensed person; and

    (b) constitutes breaches of General Principle 1, General Principle 6 and paragraph 10.1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission [3] (**Code of Conduct**), and paragraph 1.5 of the Fund Manager Code of Conduct[4] (**FMCC**).

17. In determining the disciplinary sanctions set out in paragraph 1 above, the SFC took into account all relevant circumstances, including:

    (a) Lui exploited the Investors and gained a profit of HK$17.43 million at their expense; and

    (b) excluding Lui from the industry is necessary to safeguard the investing public and uphold market integrity.

[3] Since 17 August 2018, i.e. after the Twentieth edition of the Code of Conduct came into effect.
[4] Since 17 November 2018, i.e. after the Third edition of the FMCC came into effect.

Appendix

Relevant regulatory requirements

1. Among other things, the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission[5] (**Code of Conduct**) provides that a licensed person should:

   (a) in conducting business activities, act honestly, fairly, and in the best interests of the licensed person's clients and market integrity (General Principle 1 (honesty and fairness));

   (b) try to avoid conflicts of interest, and when they cannot be avoided, should ensure that the licensed person's clients are fairly treated (General Principle 6 (conflicts of interests));

   (c) (where the licensed person has a material interest in a transaction with or for a client or a relationship which gives rise to an actual or potential conflict of interest in relation to the transaction) should neither advise, nor deal in relation to the transaction unless he/she/it has disclosed that material interest or conflict to the client and has taken all reasonable steps to ensure fair treatment of the client (paragraph 10.1 (disclosure and fair treatment)).

2. Among other things, paragraph 1.5 of the Fund Manager Code of Conduct[6] (**FMCC**) provides that where an actual or potential conflict of interest arises, a fund manager[7] should manage and minimise the conflict by appropriate safeguards and measures to ensure fair treatment of fund investors, and any material interest or conflict should properly be disclosed to fund investors.

[5] Referring to the editions of the Code of Conduct that came into effective from 17 August 2018.
[6] Referring to the Third edition of the FMCC (effective from 17 November 2018).
[7] Including representatives.