
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Poon Choi Yung¹ (**Poon**) from re-entering the industry for 20 months from 12 April 2022 to 11 December 2023 pursuant to section 194 of the SFO.
2. The SFC found that Poon:
 - (a) effected 1,002 trades in six clients' (**Clients**) stock options accounts without the clients' specific authorisations for the trades and/or their written authorisations for him to effect the trades on a discretionary basis between June 2019 and March 2020 (**Trading Period**); and
 - (b) failed to exercise due skill, care and diligence when he assisted three clients to complete their account opening forms, and did not take reasonable steps to establish their financial situations and investment experience during account opening between May 2019 and February 2020 (**Account Opening Period**).
3. Poon's conduct was in breach of General Principle 2, paragraphs 5.1(a) and 7.1(a) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**).

Summary of facts

4. Poon was a licensed representative of China Tonghai Securities Limited (**CTSL**) from 23 April 2018 to 8 May 2020. His job duties included account opening and placing orders for clients.
5. In April 2020, the SFC received a complaint from a client of CTSL, who alleged that Poon had been irresponsible when operating her accounts at CTSL. Consequently, the SFC commenced an investigation into Poon's conduct.

Conducting discretionary trades without clients' written authorisations

6. The SFC's investigation found that, during the Trading Period, Poon had conducted 1,089 trades in the Clients' stock options accounts at CTSL (**Total Trades**). However, the Clients had only specifically agreed for Poon to conduct 87 trades (ie, around 8% of the Total Trades) (**87 Trades**) and there was no specific client authorisation for the remaining 1,002 trades (ie, around 92% of the Total Trades) (**Discretionary Trades**).

¹ Poon was licensed under the Securities and Futures Ordinance (**SFO**) to carry on business in Type 1 (dealing in securities) and Type 2 (dealing futures contracts) regulated activities. He is not currently licensed by the SFC.

7. In particular, the evidence shows that:
- (a) in general, Poon would use CTSL's recorded telephone line to call each Client once on each trade day to indicate he would trade in the Client's stock options account later that day (**Recorded Calls**);
 - (b) all the Recorded Calls were initiated by Poon, and the Clients would always agree with Poon's trading suggestions and never come up with any order instructions by themselves;
 - (c) while Poon had mentioned the details of the 87 Trades during the Recorded Calls, he never specified the details of the Discretionary Trades, such as order size and price, to the Clients during these calls; and
 - (d) although the Clients had agreed that Poon could trade in their stock options accounts at his discretion (**Trading Arrangements**), such arrangements were never reduced into writing and CTSL was never informed about the Trading Arrangements².
8. It is clear that Poon had effected the Discretionary Trades without the Clients' specific authorisations for the trades and/or their written authorisations for him to effect the trades on a discretionary basis, in breach of paragraph 7.1(a) of the Code of Conduct.
9. The fact that CTSL was not aware of the Trading Arrangements and the Clients' stock options accounts were not designated as discretionary accounts by CTSL was prejudicial to the Clients' interests as CTSL was prevented from monitoring and supervising the operation of their accounts and the Clients were deprived of the protection against the risk of unauthorised trades being carried out in their accounts.
10. In the circumstances, Poon has also failed to act with due skill, care and diligence, and in the best interests of the Clients when conducting business activities, in breach of General Principle 2 of the Code of Conduct.

Incorrect information on clients' account opening forms

11. The evidence also shows that Poon assisted three of the Clients (**Three Clients**) to complete their account opening forms (**Account Opening Forms**) during the Account Opening Period. However, he took no step to establish and/or verify their financial situations and investment experience. As a result, some of the answers stipulated in the Account Opening Forms that related to the Three Clients' financial situations and investment experience were wrong.
12. Poon also did not conduct the risk disclosure procedures stipulated in the Account Opening Forms properly, yet he signed on the Account Opening Forms to confirm that he had completed the relevant procedures for two of the Three Clients. At the material time, Poon's only concern was to ensure that

² At all material times, CTSL's internal policies required: (a) clients authorising CTSL and/or its representatives to effect transactions on their behalf on a discretionary basis to enter into a discretionary client mandate (**DCM**); and (b) CTSL's senior management to approve the opening of a discretionary account by signing off the DCM. However, the evidence shows none of the Clients had signed the DCM.

the Account Opening Forms were completed in a way that would enable the Three Clients to meet CTSL's suitability requirements for clients who wished to invest in its equity-linked notes.

13. In the circumstances, it is clear that Poon has failed to act with due skill, care and diligence and take all reasonable steps to establish the true and full identity of the Three Clients, and their financial situations and investment experience, in breach of paragraph 5.1(a) and General Principle 2 of the Code of Conduct.

Conclusion

14. The SFC is of the view that Poon's conduct falls short of the standard required of him and has breached General Principle 2, paragraphs 5.1(a) and 7.1(a) of the Code of Conduct.
15. In reaching the decision to take the disciplinary action set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including Poon's cooperation in resolving the SFC's concerns and his otherwise clean disciplinary record.