

## STATEMENT OF DISCIPLINARY ACTION

---

### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Ms Chan Shun King (**Chan**), a former licensed representative of Sun Hung Kai Investment Services Limited (**SHKIS**), Sun Hung Kai Commodities Limited, Sun Hung Kai Forex Limited and SHK Fund Management Limited, from re-entering the industry for 24 months pursuant to section 194 of the Securities and Futures Ordinance.
2. The SFC found that Chan effected transactions in the accounts of two clients (**Clients**) of SHKIS on a discretionary basis without obtaining their prior written authorizations.
3. Chan's conduct breached General Principle 2 and paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**) and SHKIS's internal policies on discretionary trading.

### Summary of Facts

4. General Principle 2 (diligence) of the Code of Conduct requires a licensed person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market.
5. Paragraph 7.1(a) of the Code of Conduct requires a licensed person to obtain a written authorization before it can operate a discretionary account for a client. Paragraph 7.1(c) of the Code of Conduct requires a licensed person to designate such account as a discretionary account. Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of a discretionary account.
6. SHKIS's Front Office Manual contained clear policies and procedures on the operation of discretionary accounts. These policies and procedures required account executives to obtain a written agreement and a power of attorney from clients before they could operate discretionary accounts for clients. From July 2012 onwards, SHKIS revised its policies on discretionary trading and completely banned the discretionary operation of client accounts.
7. Chan introduced the Clients to SHKIS to open cash securities accounts for trading Hong Kong securities in November 2007, and cash securities accounts for trading US securities in September 2008 and May 2009 (**Accounts**) respectively.
8. In September 2016, the Clients lodged a complaint to the SFC alleging that Chan had conducted trading in the Accounts without their authorisation.
9. While the evidence does not suggest that Chan had conducted trading in the Accounts without the Clients' authorization, our investigation found that from late 2008, Chan used the Client's login details and passwords to access and place discretionary trades to the Accounts online. The Clients did not sign

written agreements or powers of attorney authorising Chan's discretionary operation of the Accounts. Chan continued to discretionarily trade in the Accounts even after SHKIS banned the discretionary operation of client accounts in July 2012. Chan only ceased her discretionary operation of the Accounts in August 2015 after the Clients told her to stop handling the Accounts.

10. Although Chan claimed the Clients had specifically authorised her trades in the Accounts, this was not true. The emails exchanged between Chan and the Clients showed that, while they had discussed investment strategies, the Clients also agreed to Chan's discretionary management of the Accounts.

### **Conclusion**

11. Chan discretionarily operated the Accounts for almost seven years without obtaining the Clients' prior written authorizations. Chan's conduct breached paragraph 7.1 of the Code of Conduct and SHKIS's internal policies and procedures on the discretionary operation of client accounts. Chan's conduct also fell short of the standard set out in General Principle 2 of the Code of Conduct. Chan's discretionary operation of the Accounts was prejudicial to SHKIS and the Clients, as it prevented SHKIS from properly monitoring and supervising the operation of the Accounts, and deprived the Clients of SHKIS's protection against the risk of unauthorized trades being carried out in the Accounts.
12. In deciding the disciplinary sanction against Chan, the SFC took into account all relevant circumstances of this case, including the duration of Chan's misconduct and her otherwise clean disciplinary record.