

## STATEMENT OF DISCIPLINARY ACTION

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### The disciplinary action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Ha Po Kwan (**Ha**)<sup>1</sup>, former licensed representative of Primas Asset Management Limited (**PAML**), from re-entering the industry for 12 months pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that in June 2021, Ha had:
  - (a) created two false documents by altering information on the strike price or maturity date in the original product flashes<sup>2</sup> of two accumulator contracts issued by Credit Suisse AG, Hong Kong Branch (**CSHK**), and sent the false product flashes to a client of PAML to mislead the client on the strike price or maturity date of the accumulator contracts in the client's account; and
  - (b) used his personal email account for business communication with a client of PAML in breach of PAML's internal policies.

### Summary of facts

#### *Regulatory requirements*

3. General Principle 1 (Honesty and fairness) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) provides that in conducting its business activities, a licensed or registered person should act honestly, fairly, and in the best interests of its clients and the integrity of the market.
4. General Principle 2 (Diligence) of the Code of Conduct provides that in conducting its business activities, a licensed or registered person should act with due skill, care and diligence, in the best interests of its clients and the integrity of the market.

#### *Background*

5. PAML is an asset management company incorporated in Hong Kong<sup>3</sup>. PAML operates an external asset management business which involves the management of clients' assets in accounts held with custodian banks.
6. On 1 February 2019, PAML entered into an investment management agreement (**Agreement**) with Company A. Under the Agreement, Company A granted to PAML, among other things, full discretionary authority to manage Company A's securities investment portfolio in an account maintained with CSHK (**CSHK Account**). Mr X was Company A's sole director and shareholder.

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<sup>1</sup> Ha was licensed under the SFO to carry on Type 9 (asset management) regulated activity. He is currently not licensed by the SFC.

<sup>2</sup> A document prepared by the seller of a financial product which summarized the key terms of the product.

<sup>3</sup> PAML is licensed to carry on Type 4 (advising on securities) regulated activity since 27 June 2019 and Type 9 (asset management) regulated activity since 28 May 2018.

7. At the material time, Ha was employed by PAML as a director and was the relationship manager for Company A. Ha was also one of the authorised signatories of the CSHK Account.
8. Ha placed an order to CSHK to purchase an accumulator contract on 8 June 2021 (**8 June Trade**) and 15 June 2021 (**15 June Trade**) respectively on behalf of the CSHK Account. Shortly after the execution of each order, CSHK sent: (a) the product flash of the 8 June Trade and 15 June Trade to Ha (**Original Product Flash**); and (b) the trade confirmations of the two trades to Company A.
9. **On 3 July 2021, PAML self-reported to the SFC that it had received: (a) information from CSHK that Ha had provided Mr X with two product flashes in relation to the 8 June Trade and 15 June Trade where the strike price or maturity date of the accumulators did not match the information in the Original Product Flash; and (b) a verbal complaint from Mr X that Ha had provided him with false documents.**

#### *Creating and sending false product flashes*

10. At his SFC interview, Ha **admitted that he created false product flashes for the 8 June Trade and 15 June Trade by using the "editor" function in the Adobe Acrobat programme to change the information in the Original Product Flash.** Ha said that he:
  - (a) **changed the strike level of 89.88% in the Original Product Flash for the 8 June Trade to 88.38% in the false product flash because he had told Mr X before the execution of the trade that the strike level would be 88.38% but the actual market strike level was 89.88%, and he wanted to avoid Mr X questioning him on why the strike level was different from what he had been told; and**
  - (b) **changed the maturity date in the Original Product Flash of the 15 June Trade in the false product flash to avoid queries from Mr X on his change of investment strategy to purchase accumulator contracts with a tenor of 12-months instead of six months.**
11. Ha's conduct in creating and sending the false product flashes to Mr X was to mislead him as to the true positions of the strike level for the 8 June Trade and the maturity date for the 15 June Trade. Ha's conduct was clearly dishonest, constitutes a breach of General Principle 1 of the Code of Conduct, and casts serious doubts on his ability to carry on regulated activities honestly and fairly, as well as his reputation, character and reliability.

#### *Use of personal email account for business communication*

12. PAML's General Compliance Manual at the material time prohibited staff members from using personal email accounts for business purposes and required staff members to use PAML's official email address and email server to send emails in connection with its business operations.
13. **Ha admitted that he had used his personal email account to send the false product flashes to Mr X.** Ha's use of his personal email account to send the false product flashes to Mr X was in breach of PAML's internal policies and had prevented PAML from monitoring his regulated activities. Ha's conduct constitutes a breach of General Principle 2 of the Code of Conduct.

## **Conclusion**

14. Having considered all the circumstances, the SFC is of the opinion that Ha is guilty of misconduct, and not fit and proper to be licensed.
15. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including:
  - (a) Ha's conduct in creating and sending the false product flashes to Mr X was deliberate and dishonest;
  - (b) Ha did not obtain any personal monetary gain from his misconduct;
  - (c) Ha's misconduct did not cause any financial loss for the client;
  - (d) Ha's admission and cooperation in the SFC's investigation; and
  - (e) Ha has an otherwise clean disciplinary record.