

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended the licence of Mr Shum Wai Nap (**Shum**)¹, former licensed representative of PICC Asset Management (Hong Kong) Company Limited (**PICC**)², for seven months from 20 June 2024 to 19 January 2025 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is related to the SFC's earlier sanction against PICC for fund management failures³.
3. The SFC found that while Shum was the investment manager on behalf of PICC for a Cayman-incorporated fund (**Fund**) between May 2018 and April 2020, he failed to:
 - (a) properly manage the Fund to ensure that the Fund's investments were in line with its stated investment objective and investment restrictions; and
 - (b) properly manage the risks of the Fund in accordance with PICC's policies.

Summary of Facts

A. Background

4. By a Management Agreement dated 17 May 2017 (as supplemented by a Supplemental Management Agreement dated 22 November 2018), PICC was appointed to act as manager of the Fund.
5. Shum was the investment manager primarily responsible for managing the Fund from the Fund's inception on 2 May 2018 until his departure from PICC on 8 April 2020. The Fund was terminated on 7 May 2020.
6. The net asset value (**NAV**) per share of the Fund dropped from HK\$991.65 as at 28 May 2018 (the month of inception) to HK\$650.42 as at 30 April 2020 (the date of last valuation of the Fund).
7. The SFC received a complaint from a representative of an investor of the Fund, raising concerns about PICC's and Shum's failure to properly supervise the Fund.

¹ Shum was licensed under the Securities and Futures Ordinance and was accredited to PICC from 11 September 2017 to 8 April 2020 to carry on Type 4 (advising on securities) and Type 9 (asset management) regulated activities. He is currently not accredited to any licensed corporation.

² PICC is licensed to carry on Type 4 (advising on securities) and Type 9 (asset management) regulated activities under the SFO.

³ The SFC reprimanded and fined PICC \$2.8 million. Please refer to the SFC's [press release](#) and statement of disciplinary action (**PICC SDA**) dated 5 February 2024. Shum is referred to in the PICC SDA.

B. Failure to adhere to the Fund’s investment strategy, objectives and investment restrictions

8. Paragraph 3.1 of the Fund Manager Code of Conduct (**FMCC**)⁴ provides as follows:

“Investment within Mandate

A Fund Manager should ensure that transactions carried out on behalf of each fund are in accordance with the fund’s stated investment strategy, objectives, investment restrictions and guidelines, whether in terms of asset class, geographical spread or risk profile, as set out in the respective constitutive and/or relevant documents of the funds managed by the Fund Manager. In this connection, a Fund Manager should have in place effective and properly-implemented procedures and controls.”⁵

9. Pursuant to the private placing memorandum dated December 2017 and November 2018 applicable to the Fund, the Fund’s investment objective was to achieve capital preservation combined with steady capital appreciation over a long term through primarily investing in a diversified portfolio of equity securities and to enhance investment performance by investing in bonds and other fixed income securities from time to time based on PICC’s assessment of market conditions and available investment opportunities.

10. Shum did not manage the Fund in accordance with the stated investment objective and strategy:

- (a) The Fund only held one to three stocks at any given point in time during a 21-month period from its inception in May 2018 to January 2020.
- (b) The Fund held highly concentrated positions in two Hong Kong listed stocks (including Stock X) for a significant period during its two-year life span.
- (c) It was only in February 2020 that the Fund started to hold a more diversified portfolio of shares.

11. Further, the Fund’s investment in Stock X was contrary to PICC’s internal policies as it was not on PICC’s permitted securities list:

- (a) Under PICC’s internal policies, an investment manager is only allowed to purchase or sell stocks which are in a stock pool. The stock pool should be approved by the Investment Committee⁶.

⁴ Unless otherwise specified, the references to FMCC in this document are to the Third Edition of the FMCC which came into effect on 17 November 2018.

⁵ The requirement that Fund Managers should carry out transactions in accordance with clients’ mandates is also provided in paragraph 3.1 of the Second Edition of the FMCC.

⁶ The Investment Committee of PICC was responsible for reviewing and approving the “whitelisting” of securities which formed a pool of permitted securities in which individual investment managers were allowed to trade on behalf of their clients. It also performed a supervisory function. Decisions of the Investment Committee were passed to the President’s Office (and to the Executive Committee after mid-February 2020) which had the right to override the decisions made by the Investment Committee.

- (b) On 14 September 2018, the Fund purchased 14,880,000 shares in Stock X for a consideration of HK\$18,747,000 (**Purchase**). Stock X was not in the stock pool at the time of purchase:
- (i) On 14 September 2018, Legal and Compliance Department (**L&C**) received a request from the Third Party Asset Management Department (**TPAM**)⁷ to assign Stock X a permitted trading status in order to participate in a share placement.
 - (ii) L&C noted TPAM's urgency to participate in the placement⁸ and TPAM's promise that it would get the Investment Committee's approval on or before 28 September 2018, and allowed Stock X to be temporarily assigned a permitted trading status after consulting the Chief Operating Officer of PICC.
 - (iii) TPAM did not obtain the Investment Committee's approval to include Stock X in the stock pool by 28 September 2018 as required by L&C.

12. Shum was the Deputy Head of TPAM at the material time and was directly responsible for the investment decisions of the Fund. He failed to properly manage the Fund to ensure that the Fund's investments were in line with its stated investment strategy, objectives and investment restrictions. Further, he failed as a first line of defence in that he proposed to acquire Stock X which was not within PICC's investment mandate. Shum's failures constitute a breach of paragraph 3.1 of the FMCC.
13. Shum's failure to comply with paragraph 3.1 of the FMCC also constitutes a breach of General Principle 7 (compliance) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**), which requires licensed persons to comply with all regulatory requirements applicable to the conduct of their business activities so as to promote the best interests of clients and the integrity of the market, and paragraph 12.1 (compliance: in general) of the Code of Conduct, which requires licensed persons to comply with, and implement and maintain measures appropriate to ensuring compliance with the law, rules, regulations and codes administered or issued by the SFC.

C. Failure to properly manage risks of the Fund

14. Paragraph 1.2(c) of the FMCC provides that a Fund Manager should maintain satisfactory internal controls and written compliance procedures which address all applicable legal and regulatory requirements.
15. Paragraph 1.7.1 of the FMCC provides that:

"The Fund Manager should establish and maintain effective policies and procedures as well as a designated risk management function to identify and quantify the risks, whether financial or otherwise, to which the Fund Manager and, if applicable, the funds are exposed. The Fund Manager should take

⁷ TPAM was the business unit within PICC that was involved in the management of the Fund and its investments before December 2019.

⁸ It subsequently transpired that the Purchase was made in the secondary market, and not during a placement of the shares.

appropriate and timely action to contain and otherwise adequately manage such risks.”

C1. Failure to mitigate the risks associated with the Fund’s holding of an unsuitable stock

16. As set out in section B above, the Fund’s investment in Stock X was not in line with the investment restrictions set out in PICC’s internal policies at the time.
17. Despite TPAM / Shum’s several requests to add Stock X to the stock pool subsequent to the Purchase, the Investment Committee / the President’s Office repeatedly rejected such requests until 6 March 2019, when the President’s Office added Stock X to the stock pool *only to allow the stock to be sold*. This shows that PICC’s senior management did not consider Stock X a suitable stock for investment.
18. As the investment manager vested with the discretion to manage the Fund, Shum did not take proactive steps to mitigate the risks associated with the Fund’s holding of an unsuitable stock. Specifically:
 - (a) The Investment Committee first resolved on 4 October 2018 that Stock X was not a suitable stock to be added to the stock pool due to, among other factors, the lack of liquidity of the stock.
 - (b) While the President’s Office recommended on 8 October 2018 that the Fund dispose of Stock X at a good opportunity as soon as possible, Shum only procured the Fund to sell 2,464,000 of the shares, representing 16.56% of its total investment in the stock, from 18 October 2018 to 4 December 2018.
 - (c) The President’s Office resolved on 13 December 2018 that Shum might dispose of Stock X at the earliest opportunity, and in the best interests of the Fund’s investors, and added Stock X to the stock pool on 6 March 2019 for the purpose of allowing the stock to be sold.
 - (d) On 7 January 2020, the Investment Committee resolved that Shum must sell the Fund’s investments in Stock X within 60 trading days.
 - (e) Notwithstanding the President’s Office and the Investment Committee resolutions, Shum did not take any action to reduce the Fund’s holding in Stock X after 4 December 2018. At the time of his resignation from PICC in April 2020, the Fund still held 83.44% of the stock that it acquired in breach of the investment restrictions.
19. The events in relation to the Fund’s purchase and subsequent handling of Stock X show that Shum’s actions had led to the Fund holding a stock which should not have been acquired in the first place for 20 months (from September 2018 to April 2020)⁹ during its short, two-year life span.

C2. Failure to manage liquidity risks

20. Paragraph 3.14.1(a) of the FMCC provides that a Fund Manager should establish, implement and maintain appropriate and effective liquidity management policies

⁹ The calculation of this duration takes into account that Shum left PICC in April 2020. The Fund in fact held Stock X for 21 months from September 2018 to May 2020.

and procedures to monitor the liquidity risk of the fund, taking into account the investment strategy, liquidity profile, underlying assets and obligations, and redemption policy of the fund.

21. In the Circular to licensed corporations on managing the liquidity risks of funds published on 23 August 2019, the SFC reminds Fund Managers that they should implement robust risk management systems and establish well-documented liquidity risk management policies and procedures for the funds they manage.
22. Shum failed to comply with PICC's liquidity management policies and procedures and ignored the liquidity risk of the Fund:
 - (a) From July 2019, L&C started circulating liquidity risk analysis reports of the Fund to Shum and others, and the liquidity risk analysis report as of 28 June 2019 shows that 62.5% of the Fund's investment portfolio was invested in illiquid assets. Shum did not take any action to address the liquidity issue.
 - (b) The liquidity risk analysis report of the Fund as of 30 August 2019 shows that 76.79% of the Fund's investment portfolio was invested in illiquid assets.
 - (c) In November 2019, PICC revised its risk management policy and set out detailed rules for managing liquidity risks, including a framework on how breaches of liquidity limit should be managed. Under the framework, illiquid assets (ie, assets that require more than 30 days to sell) should not exceed 20% of a fund's investment portfolio, and the responsible investment manager should rectify any breaches of the liquidity limit within one month.
 - (d) The liquidity risk analysis reports as of 29 November 2019 and 2 December 2019 show that 80.7% and 91.69% of the Fund's portfolio were invested in illiquid assets (including Stock X). Shum did not follow the procedures set out in the policy and failed to rectify breaches of the liquidity limit from November 2019 to April 2020 when he left PICC.

C3. Failure to manage concentration risks

23. Shum failed to properly manage the concentration risks of the Fund:
 - (a) On 23 April 2018, L&C set up a risk limit in a system provided by a third party vendor that the market value of the Fund's holding in a single stock should not exceed 20% of the Fund's total NAV.
 - (b) There were a number of instances from November 2018 to April 2020 when the Fund's holding in Stock X and another stock accounted for more than 20% of the Fund's NAV. However, the breaches were not rectified before Shum left PICC in April 2020.

C4. Failure to comply with PICC's stop loss procedure

24. Shum's failure to follow PICC's risk management policies that it put in place is further evidenced by the following:
 - (a) On 19 March 2020, PICC implemented a stop loss policy which provides, among others, that if a fund's holding in a particular listed stock suffers a

loss of more than 50%, the investment manager should arrange for the stock to be sold within three trading days; and if he is not able to do so, he should submit a report to L&C to explain the reason and provide a proposal to address the issue.

- (b) On 25 March 2020, the Fund's holding in Stock X had triggered the threshold for forced sale under the stop loss policy. Shum should have liquidated the Fund's position in Stock X within three trading days, but he failed to do so.

- 25. Shum's failure to properly manage the Fund and comply with PICC's risk management policies was in breach of General Principle 2 (diligence) of the Code of Conduct which requires a licensed person to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market in conducting business activities.

Conclusion

- 26. Having considered all the circumstances, the SFC is of the view that Shum is guilty of misconduct and not fit and proper to remain licensed.
- 27. 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:
 - (a) the gravity of Shum's failures to ensure the Fund's adherence to its investment mandate and to properly manage the risks of the Fund could undermine the confidence of the investing public and market integrity;
 - (b) a strong deterrent message to the market that such failures are not acceptable; and
 - (c) his otherwise clean disciplinary record.