

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended the licence of Mr Chow Tsz Lam (**Chow**)¹, former responsible officer (**RO**) of Agg. Asset Management Limited (**Agg**)², for 12 months from 2 September 2025 to 1 September 2026 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is partly related to the SFC's earlier sanction against Mr Ng Ka Shun (**Ng**), who was the sole shareholder, director and the other RO of Agg³.
3. The SFC found that Agg, in its management of a Cayman-incorporated fund (**Fund A**):
 - (a) failed to prevent, manage and minimise actual or potential conflicts arising from the transactions regarding 5 debentures issued by companies wholly owned and controlled by Ng, and take measures to ensure that Fund A and its investors would be treated fairly;
 - (b) failed to ensure that it had sufficient risk management measures in place to properly protect investors' interests; and
 - (c) caused Fund A to invest in 2 debentures which appeared to have been constructed for the purpose of inflating the fund's net asset value (**NAV**).
4. Between 13 July 2017 and 11 April 2019, Chow was Agg's Manager-in-Charge (**MIC**) of Compliance, Anti-Money Laundering and Counter-Terrorist Financing, Operational Control and Review (**OCR**), and Risk Management. The SFC found that Chow failed to discharge his duties as an RO and a member of the senior

¹ Chow was licensed under the SFO to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities and was accredited to Agg and approved to act as its RO from 4 May 2017 to 11 April 2019. In respect of Types 4 and 9 regulated activities, Chow was subject to a non-sole condition, requiring that, in his capacity as RO, when actively participating in or directly supervising the business of these activities, he must do so under the advice of another RO who was accredited to the same corporation and not subject to this condition. Chow is currently not accredited to any licensed corporation.

² Agg was licensed under the SFO to carry on Types 1, 4 and 9 regulated activities. On 3 April 2020, the SFC issued a restriction notice to Agg prohibiting it from carrying on any business which constituted regulated activities under the SFO. Please refer to the SFC's press release dated 3 April 2020. Agg was struck off the Companies Register and dissolved, according to a Gazette notice published on 5 July 2024. Under section 195 of the SFO, the licence of Agg is deemed to be revoked.

³ Ng was accredited to Agg and approved to act as its RO for Type 1, 4 and 9 regulated activities from 4 May 2017 to 12 October 2020. The SFC has banned Ng for life and fined him \$1.7 million for window-dressing Agg's financial resources and mismanaging two funds. Please refer to the SFC's press release and statement of disciplinary action (**Ng SDA**) dated [23 December 2024](#) for details of the disciplinary action. The disciplinary action against Chow solely relates to his conduct in the management of Fund A referred to in the Ng SDA. There is no finding of Chow's involvement in the window-dressing activities or in the mismanagement of Fund B mentioned in the Ng SDA. **Agg/Ng's window-dressing of Agg's financial resources was uncovered following a report made by Chow to the SFC.**

management of Agg to ensure that the firm act in the best interests of Fund A and its investors and comply with applicable regulatory requirements.

Summary of Facts

Agg's mismanagement of Fund A

5. According to the Private Placement Memorandum of Fund A:
 - (a) Ng was a director of the fund.
 - (b) The manager of the fund was a Cayman incorporated entity of which Ng was the sole owner and a director (**Agg 1**). Agg 1 was also the guarantor under a corporate guarantee, which guaranteed the make-up of any shortfall between the guaranteed price and the NAV per share determined on the prescribed valuation day.
 - (c) Agg was the investment manager, appointed to manage and invest the assets of Fund A, under the delegation by the manager.
6. During the period from February 2018 to February 2019, Fund A subscribed for:
 - (a) 1 debenture issued by Agg 1 dated 28 February 2019, in the principal amount of \$1 million (**Agg 1 Debenture**); and
 - (b) 4 debentures issued by another entity of which Ng was also the sole owner and a director (**Agg 2**) in aggregate principal amounts of \$4.55 million (**Agg 2 Debentures**)(collectively the **Agg Debentures**).
7. The SFC found that:
 - (a) During the period from March 2018 to May 2019, 88.83% to 100% of Fund A's total investment (or 62.78% to 82.83% of its NAV) was invested in the Agg Debentures.
 - (b) Shortly after Fund A transferred subscriptions totalling \$4,250,000 to Agg 2 for 3 of the Agg 2 Debentures, Ng withdrew \$4,120,180 as personal loans from Agg 2.⁴ He subsequently repaid \$1 million to Agg 2.
 - (c) Although Agg 2 had only made partial repayment of the some of the principals and coupons of the Agg 2 Debentures to Fund A, Fund A took no action to seek repayment from Agg 2.
 - (d) In December 2019, Ng informed the investors of Fund A that the fund's operation was suspended, and personally offered to purchase their shares held in the fund at a 5% premium of the investors' investment principal. By August 2020, Ng had repaid to the investors around 60% to 70% of their investment principals.

⁴ There is no finding that Chow was aware of the use of the subscription proceeds by Ng/Agg 2 in this manner.

8. Fund A's subscription for the Agg Debentures has given rise to conflicts of interest. As the sole owner of Agg, Agg 1 and Agg 2 and one of the directors of Fund A, Ng was able to make all the investment decisions relating to these companies and caused Fund A to invest substantially all of its assets in debentures issued by companies controlled by him. Agg failed to take steps to avoid the conflicts of interest, or to ensure that Fund A and its investors would be fairly treated with respect to Fund A's subscriptions for the Agg Debentures.
9. Agg also failed to take any action towards quantifying and adequately managing the financial risks that Fund A would be exposed to by investing substantially all of its assets in the Agg Debentures, including concentration risks, the risk of conflicts of interest, and credit risks of the Agg Debentures.
10. Furthermore, it appears that 2 of the Agg Debentures that Agg had caused Fund A to enter into (namely, one of the Agg 2 Debentures and the Agg 1 Debenture) were for the purpose of inflating Fund A's NAV:

(a) Under the relevant Agg 2 Debenture:

- (i) Fund A essentially provided a one-year loan of \$300,000 to Agg 2, and in return Agg 2 agreed to repay \$1.28 million (over 4 times the loan amount – comprising the principal sum of \$300,000, a corporate commitment fee of \$950,000 (**Corporate Commitment Fee**), and interests) to Fund A.
- (ii) Although Agg 2's agreement to pay the Corporate Commitment Fee defies commercial sense and was subject to a cancellation clause in the subscription agreement, Agg instructed the fund administrator responsible for calculating the NAV of Fund A to book the Corporate Commitment Fee in the accounts of Fund A for the 2018 year-end.

(b) As for the Agg 1 Debenture:

- (i) On the same day that Fund A subscribed for the Agg 1 Debenture in the principal amount of \$1 million, Agg 1 provided a "Corporate Guarantee" signed by Ng to Fund A, stating that it had irrevocably honoured and guaranteed payment of \$1 million to Fund A on 28 February 2019 (**Corporate Guarantee**).
- (ii) The subscription fee payable to Agg 1 was settled by netting off against the Corporate Guarantee. While Fund A's subscription for the Agg 1 Debenture involved no actual transfer of funds, the sum of \$1 million payable under the Corporate Guarantee was included in Fund A's valuation report for February 2019 as "*cash and equivalents*" under "*Revenues*".

(c) As such, both the Corporate Commitment Fee and the Corporate Guarantee inflated the NAV of Fund A.

Chow's responsibilities

11. Although the investment decisions for the Agg Debentures were made by Ng, Chow was nonetheless fully aware of these transactions and that Fund A had subscribed for debentures issued by companies wholly owned by Ng. Despite his knowledge of the overlapping roles of Ng and the apparent conflicts of

interests, he did not raise any concerns regarding Fund A's subscription for the Agg Debentures, and was not aware of any steps having been taken to manage or minimise such conflicts of interest or to ensure the fair treatment of the fund's investors.

12. As an RO of Agg and its MIC of Compliance, Chow should have ensured that Agg comply with all applicable regulatory requirements in its capacity as fund manager of Fund A, including the fundamental duty for Agg to act in the best interests of its investors and to avoid conflicts of interest. When conflicts of interests could not be avoided, they should be properly managed to ensure that Fund A and its investors would be fairly treated.
13. The SFC found that Chow failed to take steps to:
 - (a) address the conflicts arising from the fund's investment of substantially all of its assets into private companies wholly owned by Ng; and
 - (b) manage the risks (such as the financial risks, concentration risks, risks of conflicts of interest, and credit risks) of the fund investing in these transactions.
14. In relation to the debentures mentioned in paragraph 10 above, the SFC found that Chow was the main person who communicated with the fund administrator on matters relating to the valuation of the fund including the 2 transactions. He did not turn his mind to the effect these transactions would have on the fund's NAV. As an RO and the MIC of various core functions of Agg, Chow should have ensured that Agg would be acting in the best interests of Fund A and that the fund's NAV would reflect the true value of the assets held by it. He failed to do so.

The SFC's findings

15. Agg's failures above constitute breaches of:
 - (a) General Principle (**GP**) 1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) which requires a licensed person to act honestly, fairly, and in the best interests of its clients and the integrity of the market in conducting its business activities.
 - (b) GP 2 of the Code of Conduct which 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 in conducting business activities.
 - (c) GP 6 of the Code of Conduct which requires a licensed person to avoid conflicts of interest, and when they cannot be avoided, to ensure that its clients are fairly treated.
 - (d) Paragraph 1.2(d) of the Fund Manager Code of Conduct (**FMCC**) (2nd and 3rd editions) which requires a fund manager to maintain satisfactory risk management procedures commensurate with its business.
 - (e) Paragraph 1.5 of the FMCC (3rd edition) which requires a fund manager to maintain and operate effective organizational and administrative

arrangements with a view to taking all reasonable steps designed to identify, prevent, manage and monitor any actual or potential conflicts of interest, including conducting all transactions in good faith at arm's length and in the best interests of the fund on normal commercial terms. Where an actual or potential conflict arises, the conflict should be managed and minimised 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.

- (f) Paragraph 1.7.1 of the FMCC (3rd edition) which requires a fund manager to 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 appropriate and timely action to contain and otherwise adequately manage such risks.

- 16. As an RO and a member of the senior management of Agg, Chow should have ensured that Agg would be acting in the best interests of Fund A by avoiding conflicts of interest, managing identifiable risks and that the fund's NAV would reflect the true value of the assets held by it. Chow's failure to do so was in breach of GP 9 of the Code of Conduct which requires the senior management of a licensed corporation to bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the firm.

Conclusion

- 17. Having considered all the circumstances, the SFC is of the view that Chow is guilty of misconduct and not fit and proper to remain licensed.
- 18. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including:
 - (a) Chow's cooperation with the SFC in resolving the SFC's concerns;
 - (b) Chow bore a lower level of responsibility within Agg vis-à-vis Ng⁵;
 - (c) unlike Ng, there is no finding of dishonesty against Chow;
 - (d) Chow made a report to the SFC which triggered the SFC's investigation⁶; and
 - (e) Chow's otherwise clean disciplinary record.

⁵ The SFC has had regard to the factors set out in paragraph 1.3 of the Code of Conduct and taken into account the non-sole condition to the approval for Chow to act as an RO of Agg in respect of Types 4 and 9 regulated activities.

⁶ See footnote 3 above.