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Towry Law (Asia) HK Limited Offers Ex-gratia Payments to Investors in GDT and GOT - SFC Settles Disciplinary Proceedings with a Severe ReprimandA

17 Aug 2004

The SFC instituted disciplinary proceedings against Towry Law (Asia) HK Limited (Towry Law International, 'TLI') as a result of failings in relation to two hedge funds managed by third parties, Global Diversified Trading Limited (GDT) and Global Opportunities Trading Limited (GOT). The SFC alleged that TLI:

- conducted insufficient due diligence into the two funds before recommending them to clients;
- sold the two funds to clients whose investment objectives and risk tolerance did not always match with the risk profiles of the two funds;
- failed to conduct proper enquiries into circumstances surrounding the two funds which indicated problems with the funds; and
- failed to advise clients when it became clear that the funds had problems.

GDT and GOT were both suspended from trading in September 2002, and are now being liquidated. The primary responsibility for the collapse of the two funds lies with other parties, not TLI.

Without any admission of liability on the part of TLI, it has agreed to make ex-gratia payments to all TLI investors remaining in these funds as at their respective suspension dates. GOT investors will receive an amount equal to 90% of the capital invested, plus compound interest at 1% over the HSBC US Dollars deposit rate prevailing from the date of investment to the date the offer is accepted, whilst GDT investors who invested through TLI will receive an amount equal to 80% of the capital invested, also plus compound interest at the same rate from the date of investment to the date the offer is accepted.

There is a difference between the levels of the ex-gratia payments offered for GOT and GDT investors because the funds were launched at different times and in different circumstances.

There is a mechanism for the processing of investor applications for the ex-gratia payments, which the SFC will supervise in Hong Kong (the TLI schemes).

TLI investors remaining in the funds as at the suspension dates will receive a letter from TLI by the end of August 2004 setting out the terms of the schemes. Investors are advised to consider their position and to take legal advice in relation to the TLI schemes.

TLI has confirmed that its Hong Kong office will remain open until completion of the schemes.

The SFC has decided that it is in the public interest to settle its disciplinary proceedings by severely reprimanding TLI because:

- the TLI schemes amount to substantial mitigation;
- the members of senior management responsible for TLI's involvement with the GDT and GOT funds have been replaced; and
- the SFC received a high degree of co-operation from the current senior management of TLI.

The SFC continues to discuss with TLI investor complaints about the sale of certain other third party products.

Mr Alan Linning, SFC's Executive Director of Enforcement, said "The SFC recognises the high level of co-operation it has received from the current management of TLI, as well as the promised co-operation during the life of the schemes. Taking all the circumstances into account, the SFC considers that this settlement is in the public interest.

"Last year I said that investment advisers were an enforcement priority. This remains the case. We have received numerous complaints from investors alleging that they were mis-sold a variety of

products without being properly advised about the nature or suitability of those products bearing in mind their individual appetites for risk. Mis-selling is unacceptable and will attract tough disciplinary sanctions.

“We are concerned at standards in parts of the investment adviser industry. We have a sense that there is too much emphasis on earning commission and too little on ensuring suitability.

“However, investors must also play their part and consider carefully whether an investment is right for them. There is no such thing as a risk free investment. Generally a higher rate of return equates to a higher degree of risk.

“Investors need to be comfortable that the risk associated with a particular product is something they are prepared to bear. Assuming investors are properly advised, any losses arising from the performance of a product may have to be borne by investors. Investors should also remember that the SFC has no power to award compensation. If money is lost as a result of poor investment advice or poor investment performance the civil courts may be an investor’s only recourse” Mr Linning added.

Ends

Notes:

1. Investors may find a set of [Questions and Answers](#) attached to this press release useful.
2. GDT was suspended from trading on 17 September 2002.
3. GOT was suspended from trading on 24 September 2002.

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