
Enforcement Actions

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29 March 2005

SFC Suspends Lo Chiu Wai for Conflicts of Interest and Unsound Advice

The SFC has suspended the licence of Mr Lo Chiu Wai, a licensed representative of South China Securities Limited and South China Commodities Limited, for nine months, effective from 27 March 2005 to 26 December 2005 (Note 1).

In an investigation concerning a placement by Cedar Base Electronic (Group) Limited (now renamed China Water Affairs Group Limited) in January 2002, the SFC found that Lo had borrowed \$4.5 million from a client and lent it to three other clients to subscribe for Cedar Base shares in the placement. As a result, Lo became interested in the transactions. Although the conflict of interest could easily have been avoided, Lo failed to avoid them because he did not want to lose a business opportunity. The loans also breached Lo's employers' internal rules.

Furthermore, Lo recommended to the three clients to subscribe beyond their means by borrowing substantial loans from him to finance the investment. He had, however, failed to consider whether the amount of potential loss, magnified by the leveraging effect of the loans, was appropriate for the three clients. One of the clients suffered a loss that exceeded her annual income as a result of the subscription. The bases of Lo's recommendations were flawed and unreasonable, and failed to take into account the three clients' risk tolerance and investment objectives.

One of the subscribing clients was Lo's mother. Lo shared the loss of transactions through his mother's account. By not informing his employers the fact that he had a personal interest in those transactions, Lo also breached his employers' internal rules.

The SFC concludes that Lo's fitness and properness has been called into question and decides to suspend his licence for nine months.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Licensees must handle conflicts of interest with care. Loans to and from clients clearly give rise to conflicts of interest. Licensees should avoid becoming personally interested in clients' transactions. Client interests are at risk in such situations and the SFC will penalise more heavily if there is evidence of any harm to clients."

"Equally importantly, advice or recommendations given by licensees to clients must be suitable, based on thorough analysis and having taken into account alternatives. In the case of a leveraged transaction, licensees must also ensure that the client understands the nature and risks of the transaction and has sufficient net worth to be able to assume the risks and bear the potential losses of the transaction," Mr Linning added.

Ends

Notes to Editor:

1. Lo is a deemed licensee in Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities under the Securities and Futures Ordinance.

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