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SFC Settles Disciplinary Action with Gain Asset Management Limited

25 Apr 2005

Gain Asset Management Limited consented to pay \$500,000 to the SFC in settling the SFC's disciplinary action against it for breaches in relation to pledging of client securities and Securities and Futures (Financial Resources) Rules (FRR) (Note 1).

The SFC found in an inspection that:

- from April to November 2003, Gain had pledged client securities collateral with other licensed corporations while not licensed in Type 1 (dealing in securities) or Type 8 (securities margin financing) regulated activities, hence breaching the Securities and Futures (Client Securities) Rules; and
- while obtaining loans from other licensed corporations in an Initial Public Offering (IPO) subscription for itself and its clients, Gain had failed to maintain the required liquid capital from 31 October to 2 December 2003, hence breaching the FRR.

The SFC concludes that the fitness and properness of Gain has been called into question.

Gain has agreed to make the payment in full and final settlement of the SFC's case.

In settling its disciplinary action and accepting the payment from Gain, the SFC has taken into account that:

- Gain took immediate actions to rectify relevant deficiencies;
- Gain co-operated fully with the SFC's investigation; and
- no clients suffered loss.

The SFC will pay the sum to the government revenue and the SFC considers the settlement to be in the public interest.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "In accordance with section 10 of the Securities and Futures (Client Securities) Rules, Gain should not have re-pledged client securities. Licensees are also obliged to take steps to ensure their compliance with the FRR. Such compliance is vital to ensuring that a licensed corporation is adequately capitalised and can therefore meet its obligations to clients, other market participants and creditors. This is essential to the integrity of the market as a whole. As a result, the SFC views breaches of the FRR by licensed corporations very seriously."

Ends

Notes to Editor:

1. Gain is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 9 (asset management) regulated activities. It was not licensed or deemed licensed to conduct Type 1 or Type 8 regulated activities at the material time.
2. Please refer to [SFC press release issued on 9 December 2003](#) in respect of treatment of IPOs under the FRR.

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