

# Securities and Futures Appeals Tribunal Upholds the SFC's Decision to Reprimand and Fine Prudential Brokerage Limited and Lau Shing Ngon

20 Apr 2006

The SFC has reprimanded Prudential Brokerage Limited and its responsible officer, Mr Lau Shing Ngon, and fined them \$95,000 and \$45,000 respectively, pursuant to the determination of the Securities and Futures Appeals Tribunal (SFAT) (Note 1).

The disciplinary action follows a complaint of unauthorised trades made by an investor who opened an account with Prudential.

The SFC's subsequent investigation revealed that Prudential had failed to

- produce telephone recordings relating to the investor's complaints pursuant to the SFC's inquiry;
- have adequate safeguards over the telephone recordings of transactions conducted in client accounts; and
- put in place complaints handling procedures in writing and handle the client complaints in a timely and appropriate manner.

The SFC started disciplinary proceedings against Prudential and Lau for breaching the Code of Conduct and Internal Control Guidelines (Note 2). The SFC concluded that the fitness and properness of Prudential and Lau had been called into question, and issued its decision against Prudential and Lau on 6 December 2005 reprimanding and fining them \$95,000 and \$45,000 respectively.

Prudential and Lau lodged an application to the SFAT on 28 December 2005 to review the SFC's decision on the contention that no valid complaint was advanced by the investor and therefore, there was no reason to keep the telephone recordings of orders placed by that investor. The SFAT rejected this argument and dismissed the application. In a determination issued today, the SFAT held that there was a valid complaint and the test for whether a licensee has received notice of a complaint is an objective one. In any event, the SFAT accepted, by Prudential's own admission, it did not have written complaints procedures (Note 3).

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "The SFAT determination highlights that Prudential's internal controls in relation to telephone recordings and complaints handling did not satisfy our regulatory requirements. All licensees have a duty to ensure that they keep telephone recordings for at least three months and that there are proper safeguards in relation to the keeping of such recordings. This case demonstrates the need of all licensees to keep the recordings for their own benefit so that not only can they produce such tapes when asked by the SFC, but they can also protect themselves in cases of allegations of unauthorised trades. Licensees should take all complaints seriously, investigate the matter thoroughly and refrain from prematurely coming to a conclusion about a complaint for the sake of expediency."

Ends

Notes:

1. Prudential is deemed licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities), Type 4 (advising on securities), Type 6 (advising on corporate finance) and Type 9 (asset management) regulated activities. Lau is a responsible officer accredited to Prudential.
2. The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission came into effect in April 2003. The Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission also came into effect in April 2003.
3. The determination is available on the website of the SFAT at [www.sfat.gov.hk](http://www.sfat.gov.hk).

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