

## SFC Reprimands and Fines Business Securities Limited and Business Futures Limited for Internal Control Failures, and Suspends Szeto Kin Chuen for Misconduct Including Concealing Discretionary Arrangement in a Client's Accounts from the SFC

25 Sep 2006

The SFC has reprimanded Business Securities Limited (BSL) and Business Futures Limited (BFL) for internal control failures, and suspended their responsible officer, Mr Szeto Kin Chuen, for four months from 25 September 2006 to 24 January 2007 for misconduct including concealing discretionary trading arrangements for a client's accounts from the SFC. BSL and BFL are also fined \$30,000 each. The disciplinary actions are the result of a settlement between the SFC, BSL, BFL and Szeto (Note 1).

A routine inspection of BSL and BFL by the SFC in 2003 found that, from September to November 2003, Szeto had failed to keep telephone recordings of most of the orders placed by two of his clients, including his mother, in their accounts with BSL and BFL. Szeto repeatedly told the SFC that his mother had placed the orders by calling his mobile phone or by attending the office of BSL and BFL in person. He also told the SFC that BSL and BFL did not operate any discretionary accounts when in fact he had been discretionarily trading in his mother's accounts without her written authorisation or designating those accounts as discretionary accounts as required by the Code of Conduct.

The SFC found that Szeto had provided misleading information to the SFC by concealing the discretionary trading arrangement in his mother's accounts. Szeto had also, in breach of the Code of Conduct, conducted more than two day trades in his mother's account with BFL without obtaining her prior written approval specifically authorising those trades.

The SFC investigation further revealed internal control failings in BSL and BFL, including:

- failure to put in place proper procedures to ensure their licensed representatives were in compliance with the tape-recording requirement under paragraph 3.9 of Code of Conduct and to keep adequate audit trails of clients' orders; and
- failure to designate the accounts of Szeto's mother as discretionary accounts and to implement internal control procedures to ensure proper supervision of the operation of discretionary accounts.

The SFC concludes that BSL, BFL and Szeto have been guilty of misconduct and their fitness and properness has been called into question.

The SFC considers the settlement to be in the public interest and in the interest of the investing public. In settling the disciplinary action, the SFC took into account all the circumstances of the case including the fact that:

- the management of both BSL and BFL was aware that Szeto had conducted discretionary trading in his mother's accounts and held himself out as responsible for any losses incurred in those accounts;
- BSL and BFL have put in place corrective measures regarding recording of clients' orders; and
- after the SFC's inquiries, BSL and BFL have obtained written approval from Szeto's mother for Szeto to trade in her accounts on a discretionary basis.

Mr Eugène Goyne, an SFC Senior Director of Enforcement, said: "We expect licensed persons to provide us with accurate and complete answers at all times. Those who provide the SFC with misleading information could be both criminally prosecuted and disciplined. In addition, any discretionary power granted to an account executive by the client must be in writing. The broker firm's records and the client agreement should designate the account as a discretionary account. These measures are essential for the protection of investors and to ensure that investors are dealing with honest and effective licensees. A higher standard of compliance is expected of Szeto who is a responsible officer of BSL and BFL."

"It is also important for licensed corporations to keep adequate audit trails of clients' orders to protect their clients and the integrity of their dealing practices. Failure to do so may cast doubts on the effectiveness and adequacy of a firm's internal control procedures and may reflect adversely on its fitness and properness," Mr Goyne added.

Ends

Notes:

1. BSL and BFL are licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities respectively. Szeto is licensed under the SFO to carry on Type 1 and Type 2 regulated activities. He is a responsible officer accredited to BSL and BFL.

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