
Enforcement News

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22 October 2009

SFC reprimands and fines Asia Pacific Securities Ltd, revokes licence of Canice Chan Yau Fung

The Securities and Futures Commission (SFC) has resolved certain compliance issues with Asia Pacific Securities Ltd (APSL) and one of its responsible officers, Mr Canice Chan Yau Fung (Note 1).

Under the resolution, the SFC has reprimanded and fined APSL \$1.4 million (Note 2), and revoked the licence of Chan.

The SFC found that APSL and Chan had engaged in window dressing activities designed to inflate the amount of liquid capital the firm was required to hold under the Securities and Futures (Financial Resources) Rules (Financial Resources Rules).

"The Financial Resources Rules are a key prudential safeguard protecting clients and creditors of licensed firms who find themselves in financial difficulty. The SFC has little sympathy for firms which manipulate their monthly returns," said Mr Mark Steward, the SFC's Executive Director of Enforcement.

APSL had wrongly included the ledger balance in its "amounts due by directors" account, representing money advanced to its directors, into the calculation of its liquid capital. If the "amounts due by directors" had not been included, APSL would have failed to maintain the minimum required level of liquid capital during intra-month periods for the four financial years since 2003. Average deficits in the required liquid capital ranged from around \$250,000 to \$1,000,000 (Note 3).

The SFC found a recurring pattern of APSL advancing money to its directors under the "amounts due by directors" account immediately after month-ends, with reimbursements by approximately the same amounts of money at month-ends, when APSL had to submit its financial returns to the SFC. These attempts by APSL to window dress its liquid capital position were made under Chan's instructions.

APSL and Chan both note the views of the SFC in respect of the compliance lapses and regret that these lapses occurred.

In reaching this resolution, the SFC took into account that:

- both APSL and Chan fully co-operated with the SFC;
- neither APSL nor Chan has previous disciplinary record; and
- APSL immediately ceased to include the ledger balance in the "amounts due by directors" account in the calculation of its liquid capital when notified by the SFC.

End

Notes :

1. Both APSL and Chan are licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) regulated activity.

2. The SFC reduced the penalty by \$100,000 upon APSL's agreeing to engage an independent audit firm to verify its liquid capital position consisting of 12 intra-month liquid capital computations for the period between October 2009 and September 2010.
3. The computation is done by subtracting the average monthly values of "amounts due by directors" from the respective average monthly values of APSL's excess liquid capital.

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