

## SFAT affirms SFC decision to suspend Godwin Chu Kwok Shing for trading malpractice

5 Jul 2010

The Securities and Futures Commission (SFC) has suspended Mr Godwin Chu Kwok Shing (Note 1) for 18 months from 30 June 2010 to 29 December 2011 following the determination of the Securities and Futures Appeals Tribunal (SFAT) to uphold the SFC's decision (Note 2).

The disciplinary action stemmed from an SFC investigation into suspicious trading activities by Chu and his former colleague, Mr Wong Hong Wah (Note 3). The SFC found that, over a period of three days in April 2005, Chu and Wong used a "scaffolding" strategy in trading three stocks to facilitate their disposal of the relevant stocks at a more favourable price level (Note 4).

The SFC found that shortly after Chu and Wong had placed a sell order, they would repeatedly place, cancel and re-input numerous buy orders which substantially inflated the apparent demand of the relevant stocks. They then cancelled all or most of the outstanding buy orders as soon as their sell orders were fully executed.

The SFC held that Chu and Wong placed the buy orders for the purpose of creating a false and misleading impression about the supply and demand of the stocks.

The SFC therefore concluded that Chu and Wong were not fit and proper persons as their trading activities had damaged the integrity of the market, and decided to suspend Chu's licence. Chu appealed to the SFAT.

On 30 June 2010, the SFAT affirmed the SFC's decision to suspend Chu's licence (Note 5).

In this important ruling, the SFAT confirmed that when market trading activities are being evaluated in disciplinary proceedings, it is not necessary to prove a criminal offence or a contravention of the market misconduct provisions under the Securities and Futures Ordinance.

The SFAT made it clear that: "conduct that may properly be described as trading that is not genuine must, plainly, constitute misconduct. Equally it must plainly constitute conduct that a person who is fit and proper to remain regulated, would not carry out. False trading could never be described as an honest or fair act, or in the best interests of the market. We accept the submission of the SFC that if false trading is established, the persons engaging in such trading will be liable to disciplinary action for misconduct..." (Note 6).

The SFAT reduced the suspension period imposed by the SFC from three years to 18 months taking into account similar cases that took place at around the same time as the conduct in this case. However, the SFAT also observed that it is "...right that a more serious view is now taken by the SFC of the conduct under question..." (Note 7).

End

Notes:

1. Chu is licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and accredited to SBI E2-Capital Securities Ltd, SBI E2-Capital Commodities Ltd and SBI E2-Financial Services Ltd.
2. The SFAT's [reasons for determination](#) is available on its website at [www.sfat.gov.hk](http://www.sfat.gov.hk).
3. Please see SFC [press release](#) dated 25 February 2009 for the SFC's disciplinary action against Wong.
4. "Scaffolding", the English translation of the Chinese term "搭棚", is a form of market manipulation. Generally speaking, the perpetrators attempt to distort the picture of the demand and supply of a stock by inputting a large number of orders without the intention of executing them. These false orders are usually cancelled before they are matched. The use of "scaffolding" trading strategy misleads investors and damages market integrity.
5. The SFAT comprised the Hon Justice Saunders, Chairman of the SFAT, Mr Edward Kwan Pak Chung and Mr Clement Chan Kam Wing.
6. Please see the SFAT's [reasons for determination](#), paragraph 90.

7. Please see the SFAT's [reasons for determination](#), paragraph 104.

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