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## Court upholds market manipulation convictions of warrant traders

23 Dec 2010

The Court of Appeal today dismissed the appeals of Mr Patrick Fu Kor Kuen and Mr Francis Lee Shu Yuen against their convictions for manipulating derivative warrants.

The appeals against sentence were allowed and their sentences were reduced to 20 months and 21 months, respectively.

On 7 May 2010, the District Court convicted Fu and Lee of 20 counts of creating a false and misleading appearance of active trading in derivative warrants issued by Macquarie Bank Ltd (Macquarie Bank) between January 2004 and January 2005.

Fu and Lee were sentenced to 33 and 36 months, respectively, in the first indictable prosecution under the Securities and Futures Ordinance for manipulating derivative warrants (Note 1).

The District Court found that Fu and Lee traded Macquarie Bank-issued derivative warrants between themselves in a pre-determined manner in approximately the same quantities and prices repetitively.

The trading was in effect not genuine trading, but “circular trading” to earn excess commission rebate paid by Macquarie Bank for trading in Macquarie Bank-issued warrants. This created an appearance of active trading in the warrants that was not real. As a result, potential investors might have been misled into thinking that the market for these warrants was more liquid and easier to exit than it was.

The Court of Appeal held that the purpose of the market manipulation provisions is to keep markets free of manipulation and that breach of those provisions is serious even in the absence of proof of loss to investors (Note 2). Nevertheless, the Court of Appeal considered the sentences against Fu and Lee manifestly excessive and reduced them accordingly.

End

Notes:

1. Please see SFC’s press releases dated [7 May 2010](#) and [13 May 2010](#) regarding the convictions and sentences.
2. The Court of Appeal’s judgment is available on the [Judiciary’s website](#).

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