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Société Générale reprimanded by SFC and to repay customers USD 11 million

17 Jul 2012

The Securities and Futures Commission (SFC) has reprimanded Société Générale in relation to failings in internal controls in its Wealth Management activities in its Hong Kong branch regarding the disclosure of certain fees and charges in secondary market transactions of over-the-counter bonds, options and structured notes (OTC products) (Note 1).

In addition, without admitting liability, Société Générale has agreed to reimburse affected customers the full value of this fee together with interest. The total amount will be more than USD\$11 million (Note 2).

The SFC raised concerns that, in over 3,000 transactions undertaken between April 2003 and January 2006, it appears customers of its Wealth Management activities paid or received a different price for OTC products from the actual price transacted for them by Société Générale with the difference, or margin, being retained by Société Générale as a fee.

The fee was variable and in some cases, excessive. It appears Société Générale did not disclose this fee to the customers nor was the fee disclosed as a commission in the resulting contract notes issued to each customer.

The SFC also raised concerns that Société Générale's internal controls and systems in its Wealth Management activities had failed to ensure customers were fairly treated in transacting OTC products in the secondary market, that there were inadequate policies, procedures and guidelines to ensure margins were disclosed and appropriate in each case and that conflicts of interests were properly managed.

Under the resolution, Société Générale has also agreed to:

- engage an independent reviewer to assess the amount to be paid to eligible customers (Notes 3 and 4); and
- engage an independent reviewer to review the controls, systems and procedures of the Wealth Management Unit of Société Générale in Hong Kong in relation to its current practice in charging customers in OTC transactions to ensure that they are compliant with all the legal and regulatory requirements.

Société Générale has informed the SFC that it changed its practices in February 2006 and that these issues are no longer part of its practice.

The SFC's Executive Director of Enforcement, Mr Mark Steward said, "These fees should not have been charged or taken without clear agreements and disclosure. Société Générale is doing the right thing now in reimbursing its customers."

"Regulated corporations must have proper policies and procedures to ensure that their customers are fairly, honestly and professionally treated. Relevant fees and charges need to be agreed and disclosed to customers," he added.

This case was referred to the SFC by the Hong Kong Monetary Authority (HKMA) following its investigation into issues identified in its on-site examination and matters arising from a complaint. The SFC acknowledges the investigatory work and assistance provided by the HKMA.

End

Notes:

1. Société Générale is an institution registered under the Securities and Futures Ordinance to carry on Type 1 (Dealing in Securities), Type 4 (Advising on Securities) and Type 6 (Advising on Corporate Finance) regulated activities.
2. This resolution is made under section 201 of the Securities and Futures Ordinance.
3. Eligible customers will receive an offer letter from Société Générale setting out the details of the reimbursement arrangement after the independent reviewer has completed the assessment. Société

Générale has 30 days to appoint the independent reviewer.

4. The amount of reimbursement will be the aggregate of the difference between the actual price of the transaction and the price paid or received by the customer which was the amount retained by Société Générale together with interest. The calculation of interest uses the average of counter rates from Société Générale on a 12-month deposit in the currency which the relevant OTC product(s) was denominated, for the period between the month of the date of the relevant transaction and July 2012. Interest will accrue from the date the customer transacted in the relevant OTC product(s) to 17 July 2012.

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