

## SFC suspends Lam Ka Wo for three years

20 May 2013

The Securities and Futures Commission (SFC) has suspended Mr Lam Ka Wo for three years from 18 May 2013 to 17 May 2016 (Note 1).

The disciplinary action follows an SFC investigation in which the SFC found that, during the period from September to November 2009, Lam had:

- (a) permitted a third party, without proper authorization, to:
  - (i) open and operate a customer account at UOB Kay Hian (Hong Kong) Limited (UOB) in the name of another person; and
  - (ii) transfer securities from that account at UOB to the customer's account at another brokerage firm;
- (b) failed to take steps to identify and keep records of the person who was ultimately responsible for the account, and who ultimately benefited from the transactions operated through that account; and
- (c) provided false and misleading information to UOB in the client's account opening documents.

The SFC considers that Lam's conduct demonstrates a serious lack of honesty and integrity and calls into question his fitness and properness to be a licensed person. In determining the penalty, the SFC took into account that:

- Lam's conduct was seriously dishonest;
- the transactions operated through the account did not cause any loss to the concerned customer in this case; however, apart from being dishonest, misconduct of this kind could inflict substantial loss on innocent customers, and could enable dishonest market players using the securities account of another person to conduct fraudulent or other inappropriate activities;
- a clear message needs to be sent to the market that misconduct similar to Lam's will not be tolerated and might result in a suspension of licence; and
- Lam has no previous disciplinary record.

End

Notes:

1. Lam is licensed as a representative under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and was accredited to UOB Kay Hian (Hong Kong) Limited and UOB Kay Hian Futures (Hong Kong) Limited during the period from 23 August 2004 to 28 March 2013. He is currently not accredited to any licensed corporation.
2. A copy of the [Statement of Disciplinary Action](#) in relation to the matter is available on the SFC website.

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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (SFC) has suspended Mr Lam Ka Wo<sup>1</sup> for 3 years pursuant to section 194 of the Securities and Futures Ordinance.
2. The disciplinary action is taken because Lam had:
  - (a) permitted a third party, without proper authorization, to:
    - (i) open and operate a customer account at UOB Kay Hian (Hong Kong) Limited (**UOB**) in the name of another person; and
    - (ii) transfer securities from that account at UOB to the customer's account at another brokerage firm;
  - (b) failed to take steps to identify and keep records of the person who was ultimately responsible for the account, and who ultimately benefited from the transactions operated through that account; and
  - (c) provided false and misleading information to UOB in the client's account opening documents.
3. Lam's conduct demonstrates a serious lack of honesty and integrity and a failure to comply with applicable regulatory requirements, in breach of General Principle 1 (Honesty and fairness) and paragraph 5.4 (Client identity: origination of instructions and beneficiaries) of the Code of Conduct<sup>2</sup>.

### Summary of facts

4. Lam was an account executive of UOB responsible for handling the securities trading account of a client (**Ms X**) during the period from September to November 2009.
5. Lam admitted that Ms X's UOB account was in fact opened and operated by his friend. Lam had never met Ms X nor obtained any authorisation from her allowing his friend to operate her account.
6. Although Lam had never met Ms X, he signed Ms X's account opening documents in which he falsely declared that:

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<sup>1</sup> Lam is licensed as a representative under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and he was accredited to UOB Kay Hian (Hong Kong) Limited and UOB Kay Hian Futures (Hong Kong) Limited during the period from 23 August 2004 to 28 March 2013. He is currently not accredited to any licensed corporation.

<sup>2</sup> Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

- (a) Ms X had signed the documents in his presence; and
- (b) he had explained the contents of the Risk Acceptance Statement to Ms X.

The account opening documents was then submitted to UOB for opening an account in the name of Ms X.

7. In the absence of any authorisation from Ms X, Lam allowed his friend to operate Ms X's UOB account, in that his friend:
  - (a) personally placed orders with Lam at UOB's Yuen Long branch;
  - (b) signed as Ms X on the dealing tickets for the trading orders; and
  - (c) transferred securities from Ms X's UOB account to the securities trading account at another brokerage firm also in the name of Ms X.
8. Lam was unable to provide the contact details of his friend, who he claimed had operated Ms X's account.

## **Conclusion**

9. General Principle 1 of the Code of Conduct requires licensed persons to act honestly, fairly, and in the best interests of its clients and the integrity of the market, when conducting licensed activities.
10. In the context of account opening and taking client's orders, licensed persons are required under paragraph 5.4 of the Code of Conduct to take all reasonable steps to establish the true identity of the account holder and they must satisfy themselves about and record information that identifies those who are ultimately responsible for originating the instruction in relation to a transaction.
11. It is a fundamental duty of a licensed person to conduct proper know-your-client procedures and identify the true holder of an account. In particular, allowing a person to operate a securities account in another individual's name without conducting proper know-your-client procedures could make it difficult for regulatory bodies to trace and identify those who are ultimately behind a transaction and may hinder their investigation in relation to potential market misconducts.
12. Having considered all the circumstances, the SFC is of the view that Lam's conduct was seriously dishonest and in breach of General Principle 1 and paragraph 5.4 of the Code of Conduct. Lam's conduct also calls into question his fitness and properness to be a licensed person.
13. The SFC has decided that a suspension of 3 years is most appropriate and commensurate with the view of the SFC on the gravity of Lam's misconduct. In coming to the decision to take disciplinary action against Lam, the SFC has taken into account:
  - (a) Lam's conduct was seriously dishonest. He has not only allowed a third party, without proper authorisation, to open and operate a customer account at UOB in the name of another person but also tried to cover up

such arrangement by providing false or misleading information to his employer;

- (b) the transactions operated through the account did not cause any loss to the concerned customer in this case; however, apart from being dishonest, misconduct of this kind could inflict substantial loss on innocent customers, and could enable dishonest market players using the name and/or securities account of another person to conduct fraudulent or other inappropriate activities;
- (c) Lam's failure to establish the true and full identity of his client has made it difficult for the SFC to ascertain the true position as to the beneficial ownership of Ms X's UOB account;
- (d) a clear message needs to be sent to the market that misconduct similar to Lam's will not be tolerated and might result in a suspension of licence; and
- (e) Lam has no previous disciplinary record.