

## SFC reprimands and fines Kaiser \$1.7 million

7 May 2014

The Securities and Futures Commission (SFC) has reprimanded Kaiser Securities Limited (Kaiser Securities) and Kaiser Futures Limited (Kaiser Futures) (collectively referred to as Kaiser) and fined them a total of \$1.7 million for conducting unauthorized financial activities in breach of the laws of Macau (Notes 1 & 2).

Kaiser Securities and Kaiser Futures were fined \$1 million and \$700,000 respectively.

The SFC found that between 2004 and 2011, Kaiser conducted securities business in Macau at the premises of Unified Securities (Macau) Limited (Unified) and provided services to clients in respect of their trading in securities, futures and options in the Hong Kong market in Macau through Unified contrary to Macanese law (Note 3).

The SFC considers the contravention of the laws of Macau has called into question the reputation, character and reliability of Kaiser Securities and Kaiser Futures.

In determining the penalty, the SFC took into account that:

- Kaiser conducted the unauthorized financial activities in Macau over a prolonged period of time and had profited from the activities;
- demonstrating sound reputation, character and reliability is fundamental to the fitness and properness of a licensed person;
- a clear message needs to be sent to the market that it is imperative for a licensed person to comply with all requirements of any regulatory authority and any local laws and regulations that are applicable to it;
- Kaiser had been fined by the Macau authority;
- Kaiser have an otherwise clean disciplinary record; and
- Kaiser co-operated in resolving these disciplinary proceedings.

The SFC issued a circular to intermediaries in January 2014 reminding intermediaries about their obligations when conducting cross-border business, including the importance of ensuring compliance with all relevant laws and obligations (Note 4).

End

Notes:

1. Kaiser Securities is licensed under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities) regulated activity.
2. Kaiser Futures is licensed under the SFO to carry on Type 2 (dealing in futures contracts) regulated activity.
3. The conduct contravened the Financial System Act of Macau because Kaiser did not have any authorization to carry on such a business in Macau. In July 2013, the Monetary Authority of Macao announced the decision of the Secretary for Economy and Finance of Macau to sanction Kaiser for their breach of the Financial System Act. Kaiser Securities was fined MOP1,500,000 and Kaiser Futures was fined MOP150,000 by the Macau authority.
4. Please see the circular titled '[Regulatory Compliance regarding Cross-border Business Activities](#)' dated 28 January 2014.
5. 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 publicly reprimanded Kaiser Securities Limited (**Kaiser Securities**)<sup>1</sup> and Kaiser Futures Limited (**Kaiser Futures**)<sup>2</sup> (collectively referred to as **Kaiser**) and fined them a total of \$1.7 million pursuant to section 194 of the Securities and Futures Ordinance (**SFO**) for conducting unauthorized financial activities in breach of the laws of Macau.
2. Kaiser Securities and Kaiser Futures were fined \$1 million and \$700,000 respectively.
3. The disciplinary action is taken because Kaiser Securities and Kaiser Futures had provided financial intermediary services in Macau without regulatory authorization contrary to Macanese law.

### Summary of facts

4. Licensed persons are required to satisfy the SFC that they are fit and proper to be licensed under the SFO. This is a continuous requirement. Among others, they need to demonstrate that they are persons of sound reputation, character and reliability.
5. Further, paragraph 12.1 of the Code of Conduct<sup>3</sup> provides that a licensed person should comply with, and implement and maintain measures appropriate to ensuring compliance with, the law and relevant regulatory requirements.
6. The SFC found that between 2004 and 2011, Kaiser conducted securities business in Macau at the premises of Unified Securities (Macau) Limited (Unified) and provided services to clients in respect of their trading in securities, futures and options in the Hong Kong market in Macau through Unified contrary to Macanese law.<sup>4</sup>
7. Under the arrangement between Kaiser and Unified, Unified introduced Macau clients to Kaiser and provided general assistance to the clients in

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<sup>1</sup> Kaiser Securities is licensed under the SFO to carry on Type 1 (dealing in securities) regulated activity.

<sup>2</sup> Kaiser Futures is licensed under the SFO to carry on Type 2 (dealing in futures contracts) regulated activity.

<sup>3</sup> Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

<sup>4</sup> The conduct contravened Article 118(1) of the Financial System Act of Macau because Kaiser did not have any authorization to carry on such a business in Macau. In July 2013, the Monetary Authority of Macao announced the decision of the Secretary for Economy and Finance of Macau to sanction Kaiser Securities and Kaiser Futures for their breach of the Financial System Act. Kaiser Securities was fined MOP 1,500,000 and Kaiser Futures was fined MOP 150,000 by the Macau authority.

engaging Kaiser's services. When there were clients in Macau wishing to open accounts with Kaiser, Kaiser would send its licensed representatives to Unified to handle the account opening. In conducting trades in their accounts, the clients placed securities trading orders with Kaiser through internet, telephone or Unified's staff, and received account statements from Kaiser on a regular basis.

8. The SFC considers that Kaiser's contravention of the laws of Macau has cast doubt on their reputation, character and reliability and constitutes a breach of paragraph 12.1 of the Code of Conduct.
9. As licensed persons, the duty of Kaiser Securities and Kaiser Futures to demonstrate the qualities of sound reputation, character and reliability is not only restricted to their conduct in the Hong Kong market. It is also imperative for them to respect and comply with rules of relevant regulatory authority and laws of relevant jurisdictions, particularly those where Kaiser conduct their business activities.

### **Conclusion**

10. Having considered all the circumstances, the SFC is of the view that the fitness and properness of Kaiser Securities and Kaiser Futures to be licensed under the SFO have been called into question.
11. In coming to the decision to take disciplinary action against Kaiser Securities and Kaiser Futures, the SFC has taken into account that:
  - (a) Kaiser conducted the unauthorized financial activities in Macau over a prolonged period of time and had profited from the activities;
  - (b) demonstrating sound reputation, character and reliability is fundamental to the fitness and properness of a licensed person;
  - (c) a clear message needs to be sent to the market that it is imperative for a licensed person to comply with all requirements of any regulatory authority and any local laws and regulations that are applicable to it;
  - (d) Kaiser had been fined by the Macau authority;
  - (e) Kaiser have an otherwise clean disciplinary record; and
  - (f) Kaiser co-operated in resolving these disciplinary proceedings.