

SFC bans Alice Yim Ping for three years

22 Feb 2016

The Securities and Futures Commission (SFC) has banned Ms Alice Yim Ping from re-entering the industry for three years from 20 February 2016 to 19 February 2019 (Note 1).

The disciplinary action follows an SFC investigation which found that between October 2009 and June 2011, Yim conducted trades for a client without obtaining his authorization while she was managing his securities account at KGI Asia Limited on a non-discretionary basis.

Yim also used the client's password to access his securities account to conduct trades for him and did not maintain any records of his instructions for the orders she placed in his securities account.

The SFC is of the view that Yim's failure in seeking her client's authorization before conducting trades for him amounted to a breach of the Code of Conduct, and called into question her character, reliability, and fitness and properness to be a licensed person (Note 2).

Yim's conduct in the handling of the securities account by accessing it with her client's password and her failure in maintaining records of client's instructions demonstrated her failure to act with due skill, care and diligence and in the best interests of the client (Note 3).

In deciding the penalty, the SFC took into account all relevant circumstances, including Yim's abuse of the trust that her client placed in her and her otherwise clean disciplinary record.

End

Notes:

1. Yim was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities and was accredited to Target Capital Management Limited as a responsible officer between April 2007 and April 2014. She is currently not accredited to any licensed corporation.
2. Paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) provides that a licensed person should not effect a transaction for a client unless before the transaction is effected, the client, or a person designated by the client, has specifically authorized the transaction.
3. General Principle 2 of the Code of Conduct requires a licensed person to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market when conducting his business activities.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

Page last updated : 22 Feb 2016

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Ms Alice Yim Ping (**Yim**)¹ from re-entering the industry for 3 years pursuant to section 194 of the Securities and Futures Ordinance.
2. The disciplinary action is taken because:
 - (a) Yim had conducted trades for her client (**Client**) in his account (**Account**) maintained with KGI Asia Limited without his authorization, in breach of paragraph 7.1 of the Code of Conduct²; and
 - (b) the manner in which Yim handled the Client's Account using his password to place trade orders for him on-line and without maintaining any records of his instructions for the orders placed in the account shows that she failed to act with due skill, care and diligence and in the best interests of her client, in breach of General Principle 2 of the Code of Conduct.

Summary of facts

3. Yim started to act as the Client's financial consultant in 1996 and advised him on various investments including stock trading.
4. In February 2007, Yim recommended the Client to open the Account for investing in securities. Yim agreed to manage the account for the Client.
5. In March 2007, Yim requested the Client to give his password to her for logging into the Account so that she could place trade orders for him on internet. The Client gave Yim the password to operate the Account but on a non-discretionary basis and subject to his prior approval before the trades were conducted in the account. Yim conducted trades for the Client with the password until June 2011.
6. Yim did not maintain any records of the Client's instructions (if any) for the orders that she placed for him in the Account.
7. The Client subsequently lodged a complaint with the SFC that Yim had placed stock trading orders for him in the Account without his authorization between October 2009 and June 2011.

¹ Yim was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities and was accredited to Target Capital Management Limited as a responsible officer between April 2007 and April 2014. Yim was also a director of Target Capital Management Limited between February 2007 and April 2014 and a shareholder between June 2007 and June 2014. She is currently not accredited to any licensed corporation.

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

8. Yim denied that she had conducted trades in the Account without the Client's authorization.
9. However, the Client provided the SFC with an email that Yim sent to him on 26 October 2011 showing that she admitted explicitly that she traded in 4 stocks (**4 Stocks**) without his authorization. The 4 Stocks were purchased between 19 October 2009 and 17 June 2011.

Breaches and reasons for action

10. Paragraph 7.1 of the Code of Conduct provides that a licensed person should not effect a transaction for a client unless before the transaction is effected, the client, or a person designated by the client, has specifically authorized the transaction.
11. General Principle 2 of the Code of Conduct requires all licensed persons to act with due skill, care and diligence, in the best interests of their clients and the integrity of the market when conducting their business activities.
12. The SFC is of the view that Yim's act of conducting unauthorized trades in relation to the 4 Stocks in the Client's Account amounts to a breach of paragraph 7.1 of the Code of Conduct and calls into question her character, reliability, and fitness and properness to be licensed.
13. Further, the SFC considers Yim's conduct in the handling of the Account by using the Client's password, and the lack of any records of the Client's instructions for the orders placed in the account shows a lax attitude towards compliance with regulatory requirements and her duty to act in the best interests of her clients. Yim's access to the Client's account with his password and lack of client instruction records could lead, and had led, to disputes between the Client and herself on whether the trades were authorized in the first place.
14. In the circumstances, the SFC is of the view that Yim had failed to act with due skill, care and diligence and in the best interests of her client, in breach of General Principle 2 of the Code of Conduct.

Conclusion

15. Having considered all the circumstances, the SFC is of the view that Yim's conduct has called into question her fitness and properness to be licensed and has decided to take disciplinary action against Yim as described in paragraph 1 above.
16. In determining the penalty, the SFC took into account all relevant circumstances, including that:
 - (a) Yim had abused the trust that her client placed in her; and
 - (b) she has an otherwise clean disciplinary record.

證監會禁止嚴冰重投業界三年

2016年2月22日

證券及期貨事務監察委員會（證監會）禁止嚴冰（女）重投業界三年，由2016年2月20日起至2019年2月19日止（註1）。

證監會經調查後採取上述紀律處分行動。調查發現，嚴在2009年10月至2011年6月期間以非全權委託的方式管理一名客戶在凱基證券亞洲有限公司的證券帳戶時，在未取得該客戶授權的情況下替其進行交易。

嚴亦使用該客戶的密碼登入他的證券帳戶替他進行交易，但沒有為該客戶就她在其證券帳戶內發出買賣盤所給的指示，備存任何紀錄。

證監會認為嚴沒有在替其客戶進行交易前取得其授權，違反了《操守準則》的規定，令她的品格、可靠程度與獲發牌的適當人選資格受到質疑（註2）。

嚴在處理該證券帳戶方面的行為（使用其客戶的密碼登入證券帳戶及沒有就該客戶的指示備存任何紀錄），顯示她沒有以適當的技能、小心審慎和勤勉盡責的態度行事，以維護該客戶的最佳利益（註3）。

證監會在釐定罰則時，已考慮到所有相關情況，包括嚴濫用了客戶對她的信任及她並無遭受紀律處分的紀錄。

完

備註：

1. 嚴根據《證券及期貨條例》獲發牌進行第1類（證券交易）、第4類（就證券提供意見）及第9類（資產管理）受規管活動，並在2007年4月至2014年4月期間以負責人員的身分隸屬於泰達資產管理有限公司。她現時並不隸屬任何持牌法團。
2. 《證監會持牌人或註冊人操守準則》（《操守準則》）第7.1段規定，持牌人應為客戶進交，除非在進交之前已獲得該名客戶或其指定的人士特定授權進交。
3. 《操守準則》第2項一般原則規定，持牌人在經營其業務時，應以適當的技能、小心審慎和勤勉盡責的態度行事，以維護客戶的最佳利益及確保市場潔淨穩健。

有關紀律處分行動聲明載於證監會網站

最後更新日期：2016年2月22日

紀律處分行動聲明

紀律處分行動

1. 證券及期貨事務監察委員會（**證監會**）根據《證券及期貨條例》第 194 條禁止嚴冰女士（**嚴**）¹重投業界，為期三年。
2. 本會採取上述紀律處分行動，因為：
 - (a) 嚴在未經其客戶（**該客戶**）授權的情況下，於該客戶在凱基證券亞洲有限公司開立的帳戶（**帳戶**）內替他進行交易，違反《操守準則》²第 7.1 段；及
 - (b) 嚴處理該客戶的帳戶的方式（使用該客戶的密碼替他在網上發出買賣盤，以及沒有為他就帳戶內發出的買賣盤所給的指示備存任何紀錄），顯示她沒有以適當的技能、小心審慎和勤勉盡責的態度行事，違反了《操守準則》第 2 項一般原則。

事實摘要

3. 嚴於 1996 年開始擔任該客戶的財務顧問，就各項投資（包括買賣股票）向他提供意見。
4. 2007 年 2 月，嚴建議該客戶開立帳戶，以用作投資證券。嚴同意替該客戶管理此帳戶。
5. 2007 年 3 月，嚴要求該客戶把其登入帳戶的密碼交給她，使她能夠替他在互聯網發出買賣盤。該客戶把密碼交給嚴，讓她操作帳戶，惟並非以全權委託的方式操作，並需要於在帳戶內進行交易前事先取得他批准。嚴使用密碼替該客戶進行交易，直至 2011 年 6 月。
6. 嚴並沒有為該客戶就她替其在帳戶內發出買賣盤所給的指示（如有），備存任何紀錄。
7. 該客戶其後向證監會作出投訴，指嚴於 2009 年 10 月至 2011 年 6 月期間在未經他授權的情況下，在帳戶內替他發出股票買賣盤。
8. 嚴否認她在未經該客戶授權的情況下於帳戶內進行交易。

¹ 嚴根據《證券及期貨條例》獲發牌進行第 1 類（證券交易）、第 4 類（就證券提供意見）及第 9 類（資產管理）受規管活動，並在 2007 年 4 月至 2014 年 4 月期間以負責人員的身分隸屬於泰達資產管理有限公司。嚴亦於 2007 年 2 月至 2014 年 4 月期間擔任泰達資產管理有限公司的董事，以及於 2007 年 6 月至 2014 年 6 月期間作為該公司的股東。她現時並不隸屬任何持牌法團。

² 《證券及期貨事務監察委員會持牌人或註冊人操守準則》

9. 然而，該客戶向證監會提供了一封由嚴於 2011 年 10 月 26 日向他發出的電郵，顯示她明確承認曾在未經他授權的情況下就四隻股票（**該四隻股票**）進行交易。該四隻股票於 2009 年 10 月 19 日至 2011 年 6 月 17 日期間買入。

違反規定及採取行動的理由

10. 《操守準則》第 7.1 段規定，持牌人不應為客戶進行交易，除非在進行交易之前已獲得該名客戶或其指定的人士特定授權進行交易。
11. 《操守準則》第 2 項一般原則規定，所有持牌人在經營其業務時，應以適當的技能、小心審慎和勤勉盡責的態度行事，以維護客戶的最佳利益及確保市場廉潔穩健。
12. 證監會認為，嚴在該客戶的帳戶內就該四隻股票進行未獲授權交易的行為，違反《操守準則》第 7.1 段，令她的品格、可靠程度與獲發牌的適當人選資格受到質疑。
13. 此外，證監會認為，嚴在處理帳戶方面的行為（使用該客戶的密碼，以及沒有為該客戶就帳戶內所發出的買賣盤所給的指示備存任何紀錄），顯示她對於遵守監管規定及以其客戶的最佳利益行事方面的責任，持散漫的態度。嚴以該客戶的密碼登入他的帳戶以及沒有備存客戶指示紀錄，可能會並且已經導致該客戶與她之間就各項交易是否從一開始已獲得授權發生糾紛。
14. 基於有關情況，證監會認為嚴沒有以適當的技能、小心謹慎和勤勉盡責的態度行事，以維護其客戶的最佳利益，違反了《操守準則》第 2 項一般原則。

結論

15. 證監會經考慮所有情況後，認為嚴的行為令其作為獲發牌的適當人選的資格受到質疑，並決定對嚴採取上文第 1 段所述的紀律處分行動。
16. 證監會在釐定罰則時，已考慮到所有相關情況，包括：
- (a) 嚴濫用了其客戶對她的信任；及
 - (b) 她並無遭受紀律處分的紀錄。