

SFC bans Fok Chi Kin for eight months

22 Jun 2017

The Securities and Futures Commission (SFC) has banned Mr Fok Chi Kin from re-entering the industry for eight months from 20 June 2017 to 19 February 2018 (Note 1).

Fok was a vice president of JPMorgan Funds (Asia) Limited (JPFL) providing sales support before he tendered his resignation on 8 March 2016. He left JPFL on 10 April 2016 and joined BNP Paribas Investment Partners Asia Limited (BNP) as a client relationship manager the following day (i.e. 11 April 2016).

An internal investigation by JPFL revealed Fok transferring proprietary information and client data of JPFL without permission on several occasions prior to and immediately after his departure from JPFL.

Specifically, Fok was found to have:

- sent a sales presentation regarding a JPFL product from his JPFL email to his personal email 10 days before he tendered his resignation, and then forwarded it within the same day to a former colleague, whose employer was not a client of JPFL.
- sent a client list from his JPFL email account to his personal email account about two and a half weeks before his last working day at JPFL. The client list contained personal data of approximately 2000 gatekeepers/relationship managers associated with over 80 intermediaries and distributors of JPFL's products.
- forwarded the client list to his email address at BNP on the first day of work at his new employer and saved the client list on his desktop computer at his new office.
- used the information in the client list to call eight distributors of JPFL informing them of his change of employment.

JPFL reported the matter to the SFC and informed BNP of Fok's conduct in May 2016. BNP terminated Fok's employment in June 2016.

Fok's conduct was in breach of JPFL's internal policies, the Personal Data (Privacy) Ordinance and the SFC's Code of Conduct (Notes 2 & 3).

In deciding the sanction, the SFC took into account all relevant circumstances, including Fok's admission of his misconduct and his otherwise clean disciplinary record.

End

Notes:

1. Fok was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities. He was accredited to JPFL to carry on Type 1 (dealing in securities) regulated activities from 2 August 2011 to 8 April 2016 and BNP Paribas Investment Partners Asia Limited to carry on Types 1 (dealing in securities) and 4 (advising on securities) regulated activities from 19 April to 31 May 2016. Fok is currently not licensed by the SFC.
2. Data Protection Principle 3 in Schedule 1 of the Personal Data (Privacy) Ordinance provides that personal data shall not, without the prescribed consent of the data subject, be used for a new purpose, i.e. any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to such purpose.
3. General Principle 1 (honesty) of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) provides that a licensed person should conduct business activities honestly, fairly, and in the best interest of its clients and the integrity of the market. Paragraph 12.1 of the Code of Conduct provides that a licensed person should comply with the law, rules, regulations and codes administered or issued by the SFC and the requirements of any regulatory authority which apply to the licensed person.

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

STATEMENT OF DISCIPLINARY ACTION

I. The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Fok Chi Kin (**Fok**) for a period of eight months pursuant to section 194(1)(b)(iv) of the Securities and Futures Ordinance (**SFO**).
2. Fok was licensed to carry on Types 1 (dealing in securities) and 4 (advising on securities) regulated activities under the SFO. He was accredited to JPMorgan Funds (Asia) Limited (**JPFL**) to carry on Type 1 (dealing in securities) regulated activities from 2 August 2011 to 8 April 2016 and BNP Paribas Investment Partners Asia Limited (**BNP**) to carry on Types 1 (dealing in securities) and 4 (advising on securities) regulated activities from 19 April to 31 May 2016. Fok is not currently licensed by the SFC.
3. The SFC found that Fok transferred JPFL's proprietary information and client data without permission and for purposes other than that for which the data was collected, in breach of JPFL's internal policies, the Personal Data (Privacy) Ordinance (**PDPO**), and the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**).

II. Summary of facts

4. Fok was a vice president of JPFL responsible for providing sales support to the firm's intermediary sales team before he tendered his resignation on 8 March 2016. He left JPFL on 10 April 2016 and joined BNP as a client relationship manager the following day (i.e. 11 April 2016).
5. On 24 March 2016, JPFL discovered two outbound emails from Fok's JPFL email account which raised concern that JPFL's proprietary and client information might have been sent to an external third party. A subsequent JPFL's internal investigation revealed that:
 - (a) On 26 February 2016, Fok sent a sales presentation regarding a J.P. Morgan investment fund (**Sales Presentation**) from his JPFL email account to his personal email account. On the same day, Fok forwarded the Sales Presentation from his personal email account to a former colleague, whose employer was not a client of JPFL.
 - (b) On 23 March 2016, Fok sent a client list comprising business contacts of employees of JPFL's business partners/clients (**Contact List**) from his JPFL email account to his personal email account. The content of the Contact List included, *inter alia*, the names, positions, office addresses, office/mobile numbers and office/personal email addresses of approximately 2000 gatekeepers/relationship managers associated with over 80 intermediaries and distributors of JPFL's funds. The Contact List also recorded the latest dates JPFL contacted those persons and the assets under management of the relevant business entities.

- (c) On 11 April 2016 (i.e. Fok's first day of work at BNP), Fok forwarded the Contact List from his personal email account to his BNP email account. He also saved a copy of the Contact List in his desktop computer at BNP. Fok admitted to having called eight contacts in the Contact List to inform them of his change of employment.
6. JPFL reported the matter to the SFC and informed BNP of the incident in May 2016. Consequently, BNP terminated Fok's employment with effect from 14 June 2016.

III. Conclusion

7. Both the Sales Presentation and the Contact List were proprietary to JPFL. Fok has breached JPFL's internal policies as well as his employment contract with JPFL by sending such information to his personal and BNP email accounts and to a third party.
8. As the Contact List comprised personal data, Fok's conduct was also in violation of Data Protection Principle 3 in Schedule 1 of the PDPO, which provides that personal data shall not, without the prescribed consent of the data subject, be used for a new purpose. New purpose, in relation to the use of personal data, means any purpose other than that for which the data was to be used at the time of collection of the data, or a purpose directly related to such purpose.
9. Further, the SFC is of the view that Fok has acted contrary to General Principle 1 and paragraph 12.1 of the Code of Conduct, which called into question his fitness and properness to remain licensed.
10. In deciding the disciplinary sanction set out in paragraph 1, the SFC has taken into account all relevant circumstances, including:
- (a) there is no evidence that JPFL or its clients/business partners had suffered any loss as a result of this incident;
 - (b) Fok admitted liability for his misconduct; and
 - (c) Fok has an otherwise clean disciplinary record with the SFC.