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SFC suspends Chan Wai Ling for 12 months

26 Jul 2017

The Securities and Futures Commission (SFC) has suspended Ms Chan Wai Ling for 12 months from 26 July 2017 to 25 July 2018 (Note 1).

The disciplinary action follows an SFC investigation which found that between December 2013 and May 2015, Chan, an account executive of Kingsway Financial Services Group Limited, accepted instructions from a third party to trade in the accounts of three clients without obtaining written authorization from those clients. Chan also traded in one of the clients' accounts on a discretionary basis based on instructions from the third party on several occasions without verifying such instructions with the client nor obtaining the client's written authorization.

The investigation also found that Chan created deceptive telephone records to give the impression that the trade instructions originated from or were confirmed with the clients.

The SFC considers that Chan failed to act in her clients' best interests as she did not obtain her clients' written authorization or inform her employer before she acted on the third party instructions. Chan was also dishonest as she created deceptive telephone records which prevented her employer from monitoring the clients' trade activities properly.

In deciding the penalty, the SFC took into account all relevant circumstances including Chan's otherwise clean disciplinary record.

End

Note:

1. Chan is licensed as a representative under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) regulated activity and was accredited to Kingsway Financial Services Group Limited between 1 April 2003 and 30 June 2015. Chan is currently accredited to KGI Asia Limited.

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

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STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended Ms Chan Wai Ling (Chan) for 12 months pursuant to section 194 of the Securities and Futures Ordinance.
2. The SFC's investigation found that Chan:
 - (a) accepted instructions from a third party (the **Third Party**) to trade in three clients' accounts without obtaining written authorization from those clients;
 - (b) traded in a client's accounts on a discretionary basis based on instructions from the Third Party and without verifying such instructions with the client and obtaining the client's written authorization; and
 - (c) created deceptive telephone records to give a misleading impression that the trade instructions originated from the clients, or trade confirmations were made to the clients.
3. Chan's conduct was in breach General Principle 1 and paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**).

Summary of Facts

4. Chan was an account executive of Kingsway Financial Services Group Limited (**Kingsway**) between 1 April 2003 and 30 June 2015.

Accepting trade instructions from the Third Party without clients' written authorization

5. Paragraph 7.1(a)(i) of the Code of Conduct stipulates that a licensed person should not effect a transaction for a client unless before the transaction is effected the client, or a person designated in writing by the client, has specifically authorized the transaction.
6. According to Kingsway's internal policies, a client is required to provide Kingsway with a 'Letter of Authorization' if he or she wishes to authorize another person to place order on his/her behalf.
7. The evidence shows that:
 - (a) Three clients of Chan (Client A, Client B and Client C) verbally told Chan that they authorized the Third Party to operate their trading accounts, but they did not sign any written authorization.
 - (b) Based on the Third Party's instructions, Chan placed trade orders in Client A and Client B's trading accounts between around June 2014

and May 2015 and in Client C's trading accounts between December 2013 and May 2015.

8. The SFC found that Chan breached paragraph 7.1(a)(i) of the Code of Conduct and failed to comply with Kingsway's internal policies as she accepted instructions from the Third Party to trade in the trading accounts of the three clients without obtaining written authorization from them.
9. The lack of written authorization could expose Chan and Kingsway to the risks of potential claims if the clients subsequently dispute the Third Party's authority to trade for them. It is important that Kingsway was informed of the clients' arrangement with the third party and that proper audit trail be maintained.
10. Chan also failed to act in the clients' best interests by failing to ensure that the clients provided written authorization specifying the precise scope of the Third Party's authority to trade for them, and by failing to procure that written authorization be signed and provided to Kingsway so that such arrangement could be properly monitored by the firm.

Operating discretionary accounts without client's written authorization

11. Paragraph 7.1(a)(ii) of the Code of Conduct requires a licensed person to obtain a written authorization before it can operate a discretionary account for a client. Paragraph 7.1(c) of the Code of Conduct requires a licensed person to designate an account as discretionary account. Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of a discretionary account.
12. According to Kingsway's internal policies, in order for a licensed person to conduct discretionary trading in a client's account, the client must enter into a 'Discretionary Account Agreement' which sets out the terms and conditions for establishing a discretionary account. The Discretionary Account Agreement must be approved by Kingsway.
13. The SFC found that Chan breached paragraph 7.1(a)(ii) of the Code of Conduct and failed to comply with Kingsway's internal policies. Unbeknownst to Kingsway, Chan conducted trading of H-shares in Client C's trading accounts on a discretionary basis based on the Third Party's instructions without verifying directly with Client C that she had the authority to do so and obtaining written authorization from Client C.
14. The SFC considers that Chan failed to act in Client C's best interests and to ensure that she was properly authorized by the account holder to exercise discretion to trade in Client C's trading accounts. Further, as the management of Kingsway was not aware of the discretionary arrangement in Client C's trading accounts, the operation of Client C's trading accounts could not be properly monitored and supervised by the firm.

Creating deceptive telephone records to give a false impression that trade instructions originated from the clients / trade confirmations were made to the clients

15. General Principle 1 of the Code of Conduct requires a licensed person to act honestly, fairly and in the best interests his/her clients and the integrity of the market when conducting his/her business activities.

16. On a sample basis, the SFC reviewed the telephone recordings in relation to a trade conducted in Client B's trading account and a trade conducted in Client C's trading account. The SFC found that:
 - (a) Chan knew Kingsway required her to telephone record trade instructions originated from clients and trade confirmations made to clients.
 - (b) Chan purposely created deceptive telephone records to give the appearance that the trade instructions came from the two clients and that she had confirmed the trades with them.
17. Chan's conduct was clearly intended to mislead Kingsway's management so that the manner in which she conducted trades in the two clients' trading accounts could not be easily detected. Chan's conduct was deliberate and dishonest and was in breach of General Principle 1 of the Code of Conduct.

Conclusion

18. Having considered all the circumstances, the SFC is of the view that Chan is not a fit and proper person to remain licensed and has decided to take the disciplinary action against Chan as described in paragraph 1 above.
19. In deciding the appropriate sanction, the SFC has taken into account all relevant circumstances, including:
 - (a) The creation of deceptive telephone records was deliberate and dishonest.
 - (b) Chan has more than 12 years of experience in the industry at the time of misconduct.
 - (c) Chan did not challenge the SFC's findings.
 - (d) Chan has an otherwise clean disciplinary record.