

SFC secures conviction against ETRADE Securities (Hong Kong) Limited for marketing of unlicensed US brokerage services in Hong Kong

21 Sep 2017

The Eastern Magistrates' Court today convicted ETRADE Securities (Hong Kong) Limited (ETrade HK) for actively marketing to the Hong Kong public US brokerage services provided by E*TRADE Securities LLC (ETrade US) which was not a licensee of the Securities and Futures Commission (SFC) (Note 1).

This is the first criminal conviction secured by the SFC against an entity for the offence of actively marketing in Hong Kong regulated activities carried out outside Hong Kong without a licence under the Securities and Futures Ordinance (SFO) (Note 2).

ETrade HK pleaded guilty to aiding and abetting ETrade US in holding itself out as a SFC licensee when it was not. ETrade HK was fined \$20,000 and ordered to pay the SFC's investigation costs.

The SFC alleged that ETrade HK had continually marketed the brokerage services of ETrade US for more than four years from around 11 May 2009 to 31 January 2014 through newspapers, magazines, and on the MTR, television, radio and online.

As a result of the marketing initiatives and services provided to ETrade US's Hong Kong-based clients, ETrade HK had received revenue from ETrade US.

The SFC reminds investors to check the SFC's Public Register of Licensed Persons and Registered Institutions on the SFC website (www.sfc.hk) to ensure that firms and people who provide securities dealing services are properly licensed.

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Notes:

1. ETrade HK is a Hong Kong-incorporated company and a securities dealer licensed with the SFC. ETrade US is and was a broker-dealer registered with the U.S. Securities and Exchange Commission that provides online trading services in U.S. securities to its customers. ETrade US was not licensed with the SFC during the relevant period.
2. Under section 115 of the SFO, if (a) a person actively markets, whether by himself or another person on his behalf and whether in Hong Kong or from a place outside Hong Kong, to the public any services that he provides; and (b) such services, if provided in Hong Kong, would constitute a regulated activity, then (i) the provision of such services so marketed shall be regarded for the purposes of section 114(1)(a) as carrying on a business in that regulated activity; and (ii) the person's marketing of such services shall be regarded for the purposes of section 114(1)(b) as holding himself out as carrying on a business in that regulated activity.

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