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SFC bans Shum Kam Ming for life

25 Sep 2017

The Securities and Futures Commission (SFC) has banned Mr Shum Kam Ming, a former account executive of Sincere Securities Limited (Sincere Securities), from re-entering the industry for life in connection with conducting unauthorized transactions in a client's account (Note 1).

The disciplinary action follows an SFC investigation which found that between March 2014 and May 2015, Shum had:

- conducted a significant number of unauthorized transactions in a client's account, causing her to suffer substantial losses (Note 2);
- tampered with the client's standing method of statement delivery in order to prevent her from receiving genuine account statements;
- provided false and misleading account statements to the client to conceal the unauthorized trades and true position in her securities account; and
- forged the client's signature to open an investment account and transferred money from her securities accounts at Sincere Securities to the investment account for trading gold commodities without her knowledge and authority (Note 3).

The SFC considers that Shum's dishonesty calls into question his fitness and properness to be a licensed person and decided to ban him for life (Note 4).

End

Notes:

1. Shum was licensed to carry on Type 1 (dealing in securities) regulated activities under the Securities and Futures Ordinance. He was accredited to Sincere Securities between 30 June 2010 and 27 May 2015. Shum is currently not licensed by the SFC.
2. Sincere Securities had compensated the client for her losses suffered as a result of Shum's misconduct.
3. Shum opened an investment account for his client at Allied Victory Gold and Silver Investment Limited, an associate company of Sincere Securities, without her knowledge and authority.
4. The matter has been reported to the Police.

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

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證監會終身禁止沈錦銘重投業界

2017年9月25日

訊匯證券有限公司（訊匯證券）前客戶主任沈錦銘（男）因在一名客戶的帳戶內進行未經授權交易，被證券及期貨事務監察委員會（證監會）終身禁止重投業界（註1）。

證監會經調查後採取上述紀律處分行動。調查發現，沈在2014年3月至2015年5月期間：

- 在一客戶的帳戶內進行了大量未經授權交易，令該客戶蒙受大額虧損（註2）；
- 擅自更改向該客戶送交帳戶結單的慣常方式，令她無法收到真正的帳戶結單；
- 向該客戶提供虛假及具誤導性的帳戶結單，藉此隱瞞其證券帳戶中的未經授權交易及真正持倉；及
- 在該客戶不知情及未有授權的情況下，偽冒其簽名開設了一個投資帳戶，並將資金從該客戶在訊匯證券開設的證券帳戶轉至該投資帳戶，以進行黃金商品交易（註3）。

證監會認為，沈的不誠實行為令人嚴重質疑其作為持牌人的適當人選資格，故決定終身禁止他重投業界（註4）。

完

備註：

1. 沈曾根據《證券及期貨條例》獲發牌進行第1類（證券交易）受規管活動，並在2010年6月30日至2015年5月27日期間隸屬訊匯證券。沈現時並非證監會持牌人。
2. 訊匯證券已向該客戶賠償其因沈的失當行為而蒙受的損失。
3. 沈在其客戶不知情及未有授權的情況下，為該客戶在匯凱金銀投資有限公司（訊匯證券的聯屬公司）開設了一個投資帳戶。
4. 訊匯證券已向警方舉報此事。

[有關紀律處分行動聲明載於證監會網站](#)

最後更新日期：2017年9月25日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Shum Kam Ming (**Shum**)¹ from re-entering the industry for life pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that during the period from March 2014 to May 2015 (**Relevant Period**), Shum had:
 - (a) conducted unauthorized transactions in a client's account, causing her to suffer substantial losses;
 - (b) tampered with the client's standing method of statement delivery in order to prevent her from receiving genuine account statements;
 - (c) provided false and misleading account statements to the client with a view to conceal the unauthorized trades and true position in her securities account; and
 - (d) forged the client's signature to open an investment account and transferred her money into the investment account for conducting gold commodities transactions without her knowledge and authorisation.
3. The SFC is of the view that Shum was guilty of misconduct and his fitness and properness to be a licensed person has been seriously called into question.

Summary of Facts

4. Shum was an account executive of Sincere Securities Limited (**Sincere Securities**) during the Relevant Period.
5. The SFC found that Shum had conducted a significant number of unauthorized transactions for one of his clients during the Relevant Period.
6. In order to prevent the client from receiving the genuine account statements, Shum falsified an instruction to Sincere Securities for changing the method of statement delivery from posting statements to the client's physical address to sending them to an email account, which Shum created without the client's knowledge and consent.
7. At the same time, Shum provided fake accounting statements to the client which contained false information of her stock holdings and overstated account values for the purpose of concealing his unauthorized trades and the true state of affairs in the client's account.

¹ Shum was licensed to carry on Type 1 (dealing in securities) regulated activities under the Securities and Futures Ordinance. He was accredited to Sincere Securities Limited between 30 June 2010 and 27 May 2015. Shum is currently not licensed by the SFC.

8. Without the client's knowledge and authority, Shum also opened an investment account² in her name by forging her signature, and transferred money from the client's securities account at Sincere Securities to the investment account for conducting transactions in gold commodities.
9. General Principle 1 (honesty and fairness) of the Code of Conduct³ requires a licensed person to act honestly, fairly, and in the best interests of its clients and the integrity of the market.
10. Paragraph 2.1 (accurate representation) of the Code of Conduct requires a licensed person to ensure that any representations made and information provided to the client are accurate and not misleading.
11. Paragraph 7.1(a) (authorization and operation of a discretionary account) of the Code of Conduct provides that:

A licensed or registered person should not effect a transaction for a client unless before the transaction is effected (i) the client, or a person designated in writing by the client, has specifically authorized the transaction; or (ii) the client has authorized in writing the licensed or registered person or any person employed by the licensed or registered person (who must in turn be a licensed or registered person) to effect transactions for the client without the client's specific authorization.
12. The SFC considers that Shum has breached:
 - (a) paragraph 7.1(a) of the Code of Conduct by effecting securities transactions in the client's accounts without her authorization;
 - (b) General Principle 1 and paragraph 2.1 of the Code of Conduct by tampering with the client's standing method of statement delivery and providing false and misleading account statements to the client with an intent to conceal the unauthorized trades and the true state of affairs in the client's account; and
 - (c) General Principle 1 of the Code of Conduct by forging the client's signature to open an investment account in the client's name, and transferring the client's money to the investment account for conducting transactions in gold commodities without the client's knowledge and authorization.

Conclusion

13. The SFC is of the view that Shum was guilty of misconduct and is not a fit and proper to be or to remain licensed. Shum's conduct also called into question his reliability and his ability to carry out regulated activities honestly.

² Shum opened an investment account for his client at Allied Victory Gold and Silver Investment Limited, an associate company of Sincere Securities, without her knowledge and consent.

³ Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

14. In reaching the decision to take disciplinary action against Shum for the matters set out in paragraph 2, the SFC has taken into account:
- (a) his conduct was seriously dishonest and spanned over a year;
 - (b) he deliberately conducted a series of dishonest and improper actions to deceive his client and Sincere Securities;
 - (c) the unauthorized transactions had caused substantial losses to his client;
and
 - (d) Shum's otherwise clean disciplinary record with the SFC.

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**）依據《證券及期貨條例》第 194 條終身禁止沈錦銘先生（**沈**）¹重投業界。
2. 證監會發現在 2014 年 3 月至 2015 年 5 月期間（**有關期間**），沈曾經：
 - (a) 在一客戶的帳戶內進行未經授權交易，令該客戶蒙受大額虧損；
 - (b) 擅自更改向該客戶送交帳戶結單的慣常方式，令她無法收到真正的帳戶結單；
 - (c) 向該客戶提供虛假及具誤導性的帳戶結單，藉此隱瞞其證券帳戶中的未經授權交易及真正持倉；及
 - (d) 在該客戶不知情且未有授權的情況下，偽冒該客戶簽名開設了一個投資帳戶，並將該客戶的資金轉至該投資帳戶，藉以進行黃金商品交易。
3. 證監會認為沈犯有失當行為，令人嚴重質疑其作為持牌人的適當人選資格。

事實摘要

4. 沈在有關期間內是訊匯證券有限公司（**訊匯證券**）的客戶主任。
5. 證監會發現，沈在有關期間內為其中一名客戶進行了大量未經授權交易。
6. 為免該客戶收到真正的帳戶結單，沈在該客戶不知情且未有同意的情況下開設了一個電郵帳戶，並向訊匯證券發出了偽造指示，將帳戶結單的送交方式由郵寄到客戶通訊地址改為發送到該電郵帳戶。
7. 與此同時，沈向該客戶提供了虛假帳戶結單，當中不但載有其股票持倉的虛假資料，還誇大了帳戶價值，藉此隱瞞他在該客戶帳戶內進行的未經授權交易及該帳戶的真實狀況。
8. 沈又在該客戶不知情且未有授權的情況下，偽冒其簽名，以其名義開設了一個投資帳戶²，並將資金從該客戶在訊匯證券開設的證券帳戶轉至該投資帳戶，以進行黃金商品交易。
9. 《操守準則》³第 1 項一般原則（誠實及公平）規定，持牌人應以誠實、公平和維護客戶最佳利益的態度行事及確保市場廉潔穩健。
10. 《操守準則》第 2.1 段（準確的陳述）規定，持牌人應確保向其客戶作出的陳述和提供的資料，都是準確及沒有誤導成分的。

¹ 沈曾根據《證券及期貨條例》獲發牌進行第 1 類（證券交易）受規管活動，並在 2010 年 6 月 30 日至 2015 年 5 月 27 日期間隸屬訊匯證券有限公司。沈現時並非證監會持牌人。

² 沈在其客戶不知情及未有同意的情況下，為該客戶在匯凱金銀投資有限公司（訊匯證券的聯屬公司）開設了一個投資帳戶。

³ 《證券及期貨事務監察委員會持牌人或註冊人操守準則》。

11. 《操守準則》第 7.1(a)段（有關委託帳戶的授權及操作）訂明：

持牌人或註冊人不應為客戶進行交易，除非在進行交易之前：(i) 已獲得該客戶或其以書面指定的人士特定授權進行交易；或(ii) 該客戶已經以書面授權持牌人或註冊人或任何受僱於該持牌人或註冊人的人士（本身亦必須為持牌人或註冊人），即使在未有該客戶特定授權的情況下，仍可為其進行交易。

12. 證監會認為沈：

- (a) 在未該客戶授權的情況下在其帳戶內進行證券交易，違反了《操守準則》第 7.1(a)段；
- (b) 擅自更改向該客戶送交帳戶結單的慣常方式，並向她提供虛假及具誤導性的帳戶結單，意圖隱瞞該客戶帳戶內的未經授權交易及真實狀況，違反了《操守準則》第 1 項一般原則及第 2.1 段；及
- (c) 在該客戶不知情且未有授權的情況下，偽冒該客戶的簽名，以其名義開設投資帳戶，並將該客戶的資金轉至該投資帳戶，以進行黃金商品交易，違反了《操守準則》第 1 項一般原則。

結論

13. 證監會認為沈犯有失當行為，並非獲發牌或繼續持牌的適當人選。沈的行為亦令人質疑其是否可靠及能否誠實地進行受規管活動。
14. 證監會在達致對沈採取第 2 段所述的紀律處分行動的決定時，已考慮到：
- (a) 沈的行為極不誠實，並且持續超過一年；
 - (b) 他蓄意採取了一連串不誠實及不正當行動，以瞞騙其客戶及訊匯證券；
 - (c) 有關的未經授權交易令其客戶蒙受大額虧損；及
 - (d) 沈並無遭受證監會紀律處分的紀錄。