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## SFC reprimands and fines Wu Hon Cheung \$50,000

9 Jan 2018

The Securities and Futures Commission (SFC) has reprimanded Mr Wu Hon Cheung, a former account executive of Sun Hung Kai Investment Services Limited (Sun Hung Kai), and fined him \$50,000 for failing to keep proper records of a client's order instructions, in breach of the Code of Conduct (Notes 1 & 2).

The SFC found that between August 2014 and January 2015, Wu failed to use Sun Hung Kai's tape-recorded phone to record instructions as required by the Code of Conduct after receiving order instructions from a client on his mobile phone. Wu also failed to record the order details and order receipt time for some of the client orders in his manual trade blotter in accordance with Sun Hung Kai's internal requirements (Note 3).

In deciding the disciplinary action against Wu, the SFC took into account all relevant circumstances, including Wu's otherwise clean disciplinary record.

The SFC stresses that keeping proper records of client orders, which helps to protect the interests of clients, is a fundamental duty expected of licensed individuals.

End

Notes:

1. Wu is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) regulated activity and was accredited to Sun Hung Kai Investment Services Limited between 18 January 2012 and 16 January 2015. Wu is currently accredited to China Industrial Securities International Brokerage Limited.
2. Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct).
3. Paragraph 3.9 of the Code of Conduct requires a licensed person to use a telephone recording system to record order instructions which are received from clients through the telephone. The use of mobile phones for receiving client order instructions is strongly discouraged. However, where orders are accepted by mobile phones, staff members should immediately call back to their licensed person's telephone recording system and record the time of receipt and the order details. The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt should only be used if the licensed person's telephone recording system cannot be accessed.

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

Page last updated : 9 Jan 2018

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## 胡漢璋遭證監會譴責及罰款50,000元

2018年1月9日

新鴻基投資服務有限公司（新鴻基）前客戶主任胡漢璋（男）因沒有妥善記錄客戶的交易指示，違反了《操守準則》，遭證券及期貨事務監察委員會（證監會）譴責及罰款50,000元（註1及2）。

證監會發現在2014年8月至2015年1月期間，胡以流動電話接獲某名客戶的交易指示後，沒有根據《操守準則》的規定利用新鴻基的錄音電話將有關交易指示記錄下來。胡亦未有依照新鴻基的內部規定將該客戶的部分交易指示的詳情及接獲時間記錄在其手寫盤紙上（註3）。

證監會在決定對胡採取上述紀律處分時，已考慮到所有相關情況，包括胡過往並無遭受紀律處分的紀錄。

證監會強調，就客戶交易指示備存妥善紀錄有助於保障客戶利益，是持牌人應履行的基本責任。

完

備註：

1. 胡根據《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2012年1月18日至2015年1月16日隸屬於新鴻基投資服務有限公司。他現時隸屬於興證國際證券有限公司。
2. 《證券及期貨事務監察委員會持牌人或註冊人操守準則》（《操守準則》）。
3. 《操守準則》第3.9段規定，持牌人應利用電話錄音系統記錄透過電話收取的客戶交易指示。證監會極不鼓勵持牌人利用流動電話收取客戶交易指示。不過，以流動電話收取交易指示的話，職員應即致電其持牌人的電話錄音系統，記其收到交易指示的時間及詳情。只有在能接駁到持牌人的電話錄音系統的情況下，才應使用其他方式（如用人手以書面方式）將客戶交易指示的詳情及收到交易指示的時間記下。

有關紀律處分行動聲明載於證監會網站。

最後更新日期：2018年1月9日

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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded Mr Wu Hon Cheung (**Wu**)<sup>1</sup>, a former account executive of Sun Hung Kai Investment Services Limited (**Sun Hung Kai**), and fined him \$50,000 pursuant to section 194 of the Securities and Futures Ordinance.
2. The SFC found that Wu failed to properly record order instructions received from a client (**Client**) through his mobile phone, in breach of General Principle 2 and paragraph 3.9 of the Code of Conduct<sup>2</sup>.

### Summary of facts

3. Wu was an account executive (**AE**) of Sun Hung Kai between January 2012 and January 2015. He was assigned as the Client's AE from 21 September 2012 to 15 January 2015.
4. Sun Hung Kai's records show that there were 33 trades (**Trades**) in the Client's securities trading account (**Account**) between August 2014 and January 2015. Wu stated that he received the Client's orders for the Trades by his mobile phone. However, there were:
  - (a) no telephone records in respect of all the Trades; and
  - (b) no entries for 20 of the Trades in Wu's manual trade blotter.
5. Wu confirmed that he was aware of Sun Hung Kai's order recording policies and knew that he should not take client orders by mobile phone. He continued to do so because he did not want to lose the Client's business. He accepted that he did not properly maintain telephone recordings in respect of the orders he received from the Client for the Trades.
6. Wu claimed that he had tried his best to record details of the Client's orders in the manual trade blotter after he returned to the office. However, he was not sure whether he had recorded all the orders for the Trades.
7. 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 its clients and the integrity of the market in conducting its business activities.
8. Paragraph 3.9 of the Code of Conduct requires a licensed person to use a telephone recording system to record order instructions which are received

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<sup>1</sup> Wu is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) regulated activity and was accredited to Sun Hung Kai Investment Services Limited between 18 January 2012 and 16 January 2015. Wu is currently accredited to China Industrial Securities International Brokerage Limited.

<sup>2</sup> Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

from clients through the telephone. The use of mobile phones for receiving client order instructions is strongly discouraged. However, where orders are accepted by mobile phones, staff members should immediately call back to their licensed person's telephone recording system and record the time of receipt and the order details. The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt should only be used if the licensed person's telephone recording system cannot be accessed.

9. Sun Hung Kai's operation manual reflects the order recording provisions under paragraph 3.9 of the Code of Conduct and requires its AEs to:
  - (a) ensure that all client orders are tape-recorded. Where orders are received through mobile phone, AEs should (i) request the client to call a tape-recorded phone of Sun Hung Kai to place the order; (ii) call the client back on the firm's tape-recorded phone to record/reconfirm the client orders; or (iii) tape-record the order details using the AEs' tape-recorded office lines; and
  - (b) record the order details as well as order receipt time in the manual trade blotter as soon as possible if an order is not received from a client by a tape-recorded phone of Sun Hung Kai.
10. The SFC considers that Wu has failed to maintain telephone and/or written records in respect of the Client's orders for the Trades placed with him by mobile phone, in breach of paragraph 3.9 of the Code of Conduct and the internal policies of Sun Hung Kai.
11. Keeping proper records of client orders helps to protect the interests of clients. Wu's failure to maintain records of the Client's orders in accordance with Sun Hung Kai's order recording policies has called into question his ability to act with due skill, care and diligence, and in the best interests of his clients under General Principle 2 of the Code of Conduct.

## **Conclusion**

12. The SFC is of the view that Wu's fitness and properness to be a licensed person has been called into question.
13. In reaching the decision to take disciplinary action against Wu for the matters set out in paragraph 2, the SFC has taken into account all relevant circumstances, including that:
  - (a) maintaining proper client order records is a fundamental duty of a licensed person when conducting regulated activities; and
  - (b) Wu has an otherwise clean disciplinary record.

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## 紀律處分行動聲明

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### 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，對新鴻基投資服務有限公司（**新鴻基**）前客戶主任胡漢璋（**胡**）<sup>1</sup>作出公開譴責並罰款 50,000 元。
2. 證監會發現，胡沒有將透過其流動電話接獲的一名客戶（**該客戶**）發出的交易指示妥善記錄下來，違反了《操守準則》<sup>2</sup>第 2 項一般原則及第 3.9 段。

### 事實摘要

3. 胡在 2012 年 1 月至 2015 年 1 月期間是新鴻基的客戶主任，並在 2012 年 9 月 21 日至 2015 年 1 月 15 日期間獲指派為該客戶的客戶主任。
4. 新鴻基的紀錄顯示在 2014 年 8 月至 2015 年 1 月期間，該客戶的證券交易帳戶（**該帳戶**）共進行了 33 項交易（**該等交易**）。胡表示，他透過其流動電話接獲該客戶就該等交易發出的交易指示。然而：
  - (a) 該等交易全部均無電話錄音紀錄；及
  - (b) 在該等交易中，有 20 項並無記錄在胡的手寫盤紙上。
5. 胡確認他知悉新鴻基的記錄交易指示政策，亦知道他不應以流動電話接受客戶的交易指示。他繼續如此行事是因為他不想失去來自該客戶的生意。他承認未有就他所接獲由該客戶發出的該等交易的指示，妥善備存電話錄音紀錄。
6. 胡聲稱，他在返回辦公室後，曾盡力將該客戶的交易指示詳情記錄在手寫盤紙上。然而，他未能確定是否有將該等交易的全部交易指示都記錄下來。
7. 《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廉潔穩健。
8. 《操守準則》第 3.9 段規定，持牌人應利用電話錄音系統記錄透過電話收取的客戶交易指示。證監會極不鼓勵持牌人利用流動電話收取客戶交易指示。不過，若以流動電話收取交易指示的話，職員應立即致電其持牌人的電話錄音系統，記錄其收到交易指示的時間及詳情。只有在不能接駁到持牌人的電話錄音系統的情況下，才應使用其他方式（例如用人手以書面方式）將客戶交易指示的詳情及收到交易指示的時間記錄下來。

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<sup>1</sup> 胡根據《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 2012 年 1 月 18 日至 2015 年 1 月 16 日期間隸屬於新鴻基投資服務有限公司。他現時隸屬於興證國際證券有限公司。

<sup>2</sup> 《證券及期貨事務監察委員會持牌人或註冊人操守準則》。

9. 新鴻基的營運手冊反映了《操守準則》第 3.9 段下的記錄交易指示條文，並要求其客戶主任：
- (a) 確保所有客戶交易指示均有錄音。若交易指示是透過流動電話接獲的，客戶主任便應(i) 要求有關客戶致電新鴻基的錄音電話落盤；(ii) 以公司的錄音電話給有關客戶回電，以記錄／再次確認該客戶的交易指示；或 (iii) 利用客戶主任的辦公室錄音電話線將交易指示的詳情錄音；及
  - (b) 如非以新鴻基的錄音電話接獲客戶的交易指示，應盡快將交易指示的詳情及接獲時間記錄在手寫盤紙上。
10. 證監會認為，胡沒有就該客戶向他發出該等交易的指示備存電話錄音及／或書面紀錄，違反了《操守準則》第 3.9 段及新鴻基的內部政策。
11. 就客戶交易指示備存妥善紀錄有助於保障客戶利益。胡沒有按照新鴻基的記錄交易指示政策為該客戶的交易指示備存紀錄，令人質疑他是否有能力根據《操守準則》第 2 項一般原則，以適當的技能、小心審慎和勤勉盡責的態度並以其客戶的最佳利益行事。

## 結論

12. 證監會認為，胡作為持牌人的適當人選資格令人質疑。
13. 證監會在達致對胡採取第 2 段所述的紀律處分行動的決定時，已考慮到所有相關情況，包括：
- (a) 當進行受規管活動時，就客戶交易指示備存妥善紀錄是持牌人的基本責任；及
  - (b) 胡過往並無遭受紀律處分的紀錄。