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SFC reprimands and fines CN Capital Management Limited and responsible officers \$1.2 million over regulatory breaches

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The Securities and Futures Commission (SFC) has reprimanded CN Capital Management Limited (CN Capital) and fined it \$1,000,000 for failing to maintain an effective compliance function and satisfactory internal controls concerning employee account dealing (Note 1).

The SFC has also reprimanded its responsible officers, Mr George Chan Yee Lee and Mr Stephen Ng Wing Leung and fined them \$100,000 each for failing to comply with the employee account dealing requirements under the Fund Manager Code of Conduct, breaching the basic principle that persons engaged in fund management business, when transacting for themselves, must give their clients priority and avoid conflicts of interest (Note 2).

The SFC's investigation revealed that, between January 2011 and October 2016:

- none of the staff members of CN Capital had disclosed their personal investment holdings to CN Capital in writing;
- Chan and Ng conducted a total of 3,188 personal trades without obtaining any written pre-clearance from the designated officer of CN Capital;
- in 619 incidents, Chan or Ng held their personal investments for less than 30 days without prior written approval from the designated officer; and
- a total of 996 personal trades of Chan and Ng were conducted in the same stock and on the same day as the transactions conducted for the fund managed by CN Capital.

In deciding the sanctions, the SFC took into account all the circumstances including:

- CN Capital, Chan and Ng self-reported the regulatory breaches and failures to the SFC;
- they co-operated with the SFC in resolving the SFC's concerns;
- they have taken remedial measures to rectify the breaches and strengthen CN Capital's internal controls and systems;
- there is no evidence to suggest any front-running activities;
- there does not appear to be any client impact arising from the personal trades of Chan and Ng; and
- CN Capital, Chan and Ng have no disciplinary record with the SFC.

End

Notes:

1. CN Capital is licensed under the Securities and Futures Ordinance (SFO) to carry on Type 9 (asset management) regulated activity.
2. Chan and Ng are licensed under the SFO to carry on Type 9 (asset management) regulated activity. They are the responsible officers of CN Capital.

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

Page last updated : 24 Apr 2018

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded CN Capital Management Limited (**CN Capital**) and its responsible officers, Chan George Yee Lee (**Chan**) and Ng Wing Leung Stephen (**Ng**), and fine them \$1,000,000, \$100,000 and \$100,000 respectively pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken according to an agreement pursuant to section 201 of the SFO dated 18 April 2018 in respect of:
 - (a) Chan's and Ng's failure to comply with the personal account dealing requirements under the Fund Manager Code of Conduct; and
 - (b) CN Capital's failure to maintain an effective compliance function and satisfactory internal controls to ensure compliance with the personal account dealing requirements.
3. CN Capital has been licensed under the SFO to carry on Type 9 (asset management) regulated activity since 1 June 2010.
4. Chan and Ng are licensed under the SFO to carry on Type 9 (asset management) regulated activity. They have been the responsible officers of CN Capital since 1 June 2010.

Summary of facts

Chan's and Ng's personal account dealing

5. In November 2016, CN Capital reported to the SFC that Chan and Ng had breached the personal account dealing requirements under the Fund Manager Code of Conduct.
6. The SFC's investigation revealed that, between 1 January 2011 and 31 October 2016 (**Relevant Period**):
 - (a) Chan and Ng conducted a total of 3,004 and 184 personal trades respectively without obtaining any written pre-clearance from CN Capital's designated officer;
 - (b) in 619 incidents (613 incidents for Chan and 6 incidents for Ng), their personal investments were held for less than 30 days without the designated officer's prior written approval;
 - (c) a total of 996 personal trades conducted by Chan and Ng involved the buying and/or selling of stocks which were also traded by the fund managed by CN Capital (**Fund**) on the same day. Of these 966 personal trades:
 - (i) 346 were executed at a better price than the Fund (i.e. bought at a lower price or sold at a higher price than the Fund), resulting in a total positive impact¹ of \$1,202,901 to Chan and Ng; and

¹ Impact amount = \sum [Difference between Chan's/Ng's execution price and the Fund's execution price] x Share Quantity]

- (ii) 459 were executed at a worse price than the Fund (i.e. bought at a higher price or sold at a lower price than the Fund), resulting in a total negative impact of HK\$1,525,409 to Chan and Ng; and
 - (d) on 26 occasions, personal trades of Chan/Ng were conducted in an opposite direction to that of the Fund.
- 7. The conduct of Chan and Ng constitutes a breach of:
 - (a) paragraph 2.1.1(b) of the Fund Manager Code of Conduct, which requires employees/directors of a Fund Manager² (**Relevant Persons**) to obtain prior written permission for personal account dealing from the Designated Compliance Officer or other person designated by senior management (**Designated Officer**);
 - (b) paragraph 2.1.1(b)(i), (ii) and/or (iii) of the Fund Manager Code of Conduct, which require that Relevant Persons should not buy or sell an investment on a day in which the Fund Manager has a pending “buy” or “sell” order in the same investment until that order is executed or withdrawn, or if the Relevant Person is aware of a forthcoming client transaction/recommendation, within 1 trading day before or after trading in that investment on behalf of the client/the recommendation on that investment is made or proposed by the Fund Manager;
 - (c) paragraph 2.1.1(c) of the Fund Manager Code of Conduct, which requires Relevant Persons to hold all personal investments for at least 30 days unless prior written approval of the Designated Officer is given for an earlier disposal; and
 - (d) paragraph 2.1.1(d)(ii) of the Fund Manager Code of Conduct, which requires Relevant Persons to obtain approval from the Designated Officers for outside broking accounts, and ensure that copies of records and statements of their personal transactions are submitted to the Designated Officer.

CN Capital's internal control failures

- 8. During the Relevant Period, CN Capital had written policies in place requiring its staff members to disclose their personal accounts and obtain written pre-clearance for their personal trades.
- 9. However, these policies were not followed by its staff members:
 - (a) none of the staff members of CN Capital had disclosed their personal investment holdings to CN Capital in writing, whether upon joining CN Capital or annually thereafter pursuant to such policies, during the Relevant Period; and
 - (b) one of the part-time staff of CN Capital had conducted personal trades during his employment with CN Capital without notifying or obtaining written pre-clearance from CN Capital.

² “Fund Manager” refers to a person licensed by or registered with the SFC whose business involves the discretionary management of collective investment schemes.

10. It is apparent that CN Capital:
 - (a) failed to have satisfactory internal controls to ensure compliance with the personal account dealing requirements, in breach of paragraph 1.2(c) of the Fund Manager Code of Conduct; and
 - (b) failed to maintain an effective compliance function within the corporation to ensure that the corporation complies with its own internal policies and procedures, and with all applicable legal and regulatory requirements, in breach of paragraph 1.6.1(a) of the Fund Manager Code of Conduct.

Conclusion

11. Having considered all the circumstances, the SFC is of the opinion that it is in the interest of the investing public and in the public interest to resolve the above concerns with CN Capital, Chan and Ng, and take the disciplinary action as set out in paragraph 1.
12. In deciding the disciplinary sanctions, the SFC has taken into account:
 - (a) CN Capital, Chan and Ng self-reported the regulatory breaches and failures to the SFC;
 - (b) they co-operated with the SFC in resolving the SFC's concerns;
 - (c) they have taken remedial measures to rectify the breaches and strengthen CN Capital's internal controls and systems;
 - (d) there is no evidence to suggest any front-running activities;
 - (e) there does not appear to be any client impact arising from the personal trades of Chan and Ng; and
 - (f) CN Capital, Chan and Ng have no disciplinary record with the SFC.