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SFC bans Fonia Kwok Lai Kwan for 12 months

27 Aug 2018

The Securities and Futures Commission (SFC) has banned Ms Fonia Kwok Lai Kwan from re-entering the industry for 12 months from 25 August 2018 to 24 August 2019 following her conviction for unlicensed asset management (Notes 1 & 2).

The Eastern Magistrates' Court found that between 2009 and 2015, Kwok, who was the sole proprietor of Finamics Capital Management (Finamics), carried on a business in asset management in the name of Finamics, an entity without an SFC licence. The clients who Kwok solicited for Finamics agreed to pay Finamics a monthly commission equivalent to 40 percent to 50 percent of the net profit generated from its management of their investment portfolios (Note 3).

In deciding the sanction against Kwok, the SFC considers that her conviction casts serious doubts on her reputation, character and reliability and she is not fit and proper to be a licensed person.

End

Notes:

1. Asset management is a type of regulated activity under the Securities and Futures Ordinance (SFO). Under the SFO, it is an offence to carry on a business in a regulated activity without an SFC licence.
2. Kwok, who was licensed to carry out Type 4 (advising on securities) regulated activity under the SFO, was accredited to Altruist Financial Group Limited from 12 September 2006 to 16 February 2015. Kwok is currently not licensed by the SFC.
3. Please see the SFC press release dated [24 August 2017](#).

[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 banned Ms Fonia Kwok Lai Kwan (Kwok)¹ from re-entering the industry for 12 months pursuant to section 194 of the Securities and Futures Ordinance (SFO).
2. The SFC found that between June 2009 and January 2015 (Relevant Period), Kwok carried on a business in a regulated activity, namely asset management, in the name of Finamics Capital Management (Finamics), without a licence.

Summary of Facts

3. Kwok was the sole proprietor of Finamics, and responsible for soliciting most of the clients (Clients) to engage the asset management service of Finamics during the Relevant Period.
4. Ho Man Chung Lawrence (Ho) managed the investment portfolios of the Clients by trading securities and futures and options contracts in their accounts at such time and on such condition as he considered appropriate.
5. Neither Ho nor Finamics were licensed with the SFC in any capacity or in relation to any regulated activities during the Relevant Period. Kwok was also not a licensed representative accredited to Finamics.
6. The Clients either signed written agreements with Finamics for Finamics to manage their accounts or verbally agreed with either Kwok or Ho for Finamics to manage their accounts.
7. At Kwok's or Ho's suggestion, the Clients also opened accounts at Bright Smart Securities International (H.K.) Limited, Bright Smart Futures & Commodities Co. Ltd. and / or KGI Asia Limited and deposited funds into the accounts.
8. The Clients also provided Kwok and / or Ho with the usernames and passwords to their accounts such that Finamics could manage and conduct securities and futures contracts trading for them in their accounts.
9. None of the Clients placed any trades in their accounts when using the service of Finamics during the Relevant Period.
10. Finamics and the Clients also agreed that, at the end of each month, Finamics would calculate if there were profits accrued in their accounts, and if so, the Clients would pay Finamics 40 to 50% of their net profit as commission.
11. Nine clients, who agreed to let Finamics manage their portfolios, invested a sum of around HK\$7,501,387 and suffered total losses of around

¹ Kwok was licenced as a representative to carry on Type 4 (advising on securities) regulated activity under the SFO. She was accredited to Altruist Financial Group Limited from 12 September 2006 to 16 February 2015. Kwok is currently not a licensed representative under the SFO.

HK\$2,499,362 from their trading via Finamics. Finamics received a total sum of HK\$946,514 from the Clients as commission for its unlicensed asset management. After deducting Finamic's operating expenses, Kwok shared the commission received by Finamics from the Clients with Ho.

12. The SFC prosecuted: (i) Kwok for carrying on a business in asset management trading in the name of Finamics, and (ii) Ho for performing a regulated function in relation to the asset management of Finamics, without licences from the SFC².
13. On 24 August 2017, Kwok and Ho both pleaded guilty to the summonses at the Eastern Magistracy, and were convicted and fined HK\$5,000 and HK\$4,000 respectively and also ordered to pay the SFC's investigation costs.

Conclusion

14. Reputation, character and reliability are fundamental in determining the fitness and properness of a licensed person. It is also imperative for a licensed person to observe and comply with all laws and regulation applicable to regulated activities.
15. Kwok's conviction has cast serious doubts on her reputation, character and reliability, and she is not a fit and proper person to be licensed.

² Under sections 114(1)(a) and 114(8) of the SFO, it is an offence to carry on a business in a regulated activity without a licence from the SFC. Under sections 114(3) and 114(9) of the SFO, it is an offence to perform any regulated function in relation to a regulated activity without a licence from the SFC. Asset management is a type of regulated activity under the SFO.