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SFC suspends Shiu Yau Wah for five months

29 Jan 2020

The Securities and Futures Commission (SFC) has suspended Mr Shiu Yau Wah, an account executive at RHB Securities Hong Kong Limited (RHBSHK), for five months from 24 January 2020 to 23 June 2020 (Note 1).

The disciplinary action follows an SFC investigation which found that Shiu conducted trades involving over \$1.62 billion worth of shares for a client account on a discretionary basis for almost two years between 2014 and 2016 without obtaining the client's written authorization. He also failed to comply with the policies and procedures of RHBSHK in relation to discretionary accounts.

In doing so, Shiu breached the Code of Conduct and is not a fit and proper person to remain licensed (Notes 2 to 4).

In deciding on the disciplinary sanction, the SFC took into account all relevant circumstances, including Shiu's admission of trading discretionarily for the client's account since it was first opened in 2014.

End

Notes:

1. Shiu is licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts) and Type 4 (advising on securities) regulated activities.
2. Code of Conduct for Persons Licensed by or Registered with the SFC.
3. Among others, paragraph 7.1(a) provides that a licensed person should not effect a transaction unless before the transaction is effected the client has specifically authorized the transaction, or authorized in writing for the licensed person to effect transactions for the client within the client's specific authorization. Further, paragraphs 7.1(c) and (d) require a licensed person to designate such accounts as "discretionary accounts" and senior management to approve the opening of discretionary accounts.
4. General Principle 2 of the Code of Conduct provides that a licensed person should act with due skill, care and diligence, in the best interests of clients and integrity of the market when carrying on business in regulated activities.

[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 suspended the licence of Mr Shiu Yau Wah (**Shiu**) as a representative in all regulated activities for five months pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that Shiu traded for a client account on a discretionary basis without obtaining the client's written authorization and failed to comply with the policies and procedures of RHB Securities Hong Kong Limited (**RHBSHK**) in relation to discretionary accounts.
3. Shiu's conduct was in breach of paragraph 7.1 and General Principle 2 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**), and calls into question his fitness and propriety to remain licensed.

Summary of facts

4. Shiu is licensed under the SFO to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts) and Type 4 (advising on securities) regulated activities. He is an account executive accredited to RHBSHK. As a licensed representative, Shiu has to comply with paragraph 7.1¹ and General Principle 2² of the Code of Conduct.
5. During the SFC's inspection of the business activities of RHBSHK in 2016, it was found that the audit trails in relation to the orders placed for a client's securities trading account (**Account**) were missing. Shiu was responsible for handling the Account.
6. The relevant account opening documentation of 22 July 2014 did not indicate that Shiu was authorized to manage the Account discretionarily. The written agreement for RHBSHK to discretionarily manage the Account through Shiu was not entered into until 29 June 2016.
7. At the relevant time, RHBSHK's policies and procedures provided that a client who wished to open a discretionary account was required to enter into a

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² General Principle 2 of the Code of Conduct provides that a licensed person should act with due skill, care and diligence, in the best interests of clients and integrity of the market when carrying on business in regulated activities.

discretionary account agreement and management approval was required before commencement of trading. Moreover, the performance and trading activities of discretionary accounts would be closely and regularly monitored by the compliance department, responsible officer and management, and the relevant clients would be informed if the account balance fell below the agreed level.

8. According to RHBSHK, all the trades in the Account were conducted by Shiu discretionarily before the discretionary account agreement was entered into. RHBSHK was unaware of the trading arrangement between the client and Shiu, and disciplinary action has been taken against Shiu for not notifying it about the trading arrangement. The relevant account statements show there were a total of around 548 trades in the Account involving over HK\$1.62 billion worth of shares for the period from July 2014 to May 2016.
9. According to Shiu, the client verbally authorized him to trade for the Account and this is the only client account that he traded discretionarily. Shiu claimed that he overlooked the written trading authorization requirement and he had been trading discretionarily for the Account since it was opened in July 2014.

Conclusion

10. Shiu has breached paragraph 7.1 of the Code of Conduct by effecting the transactions in the Account on a discretionary basis for around 23 months without obtaining the client's written authorization. He has also breached General Principle 2 of the Code of Conduct by failing to enter into a written discretionary account agreement with the client, which is not in the best interests of the client and denied the Account and the client of the relevant protection offered by RBHSHK's internal controls.
11. In reaching the decision to take the disciplinary action set out in paragraph 1 above, the SFC has taken into account all the relevant circumstances, including Shiu's admission of trading discretionarily for the Account since it was first opened in 2014.