

SFC Reprimands Li Cheung for Failings in Warrants Placements and Conducting Personal Trades Behind Employer's Back

28 Mar 2003

The SFC has reprimanded Li Cheung, a securities dealer's representative of South Capital Brokerage Limited (now known as China Southern Securities (Hong Kong) Limited).

The reprimand stemmed from an inquiry in which the SFC found that, during the period from May to September 2000, Li entered into discretionary agreements with four clients who were his relatives. Pursuant to these discretionary agreements, he subscribed for 10 different derivative warrants on their behalf. According to Hong Kong Exchanges and Clearing Limited's Placing Guidelines for Derivative Warrants then in force (Note 1), a close relative of a placing agent's staff, whose account is managed in pursuance of a discretionary managed portfolio agreement (Note 2), is a connected client. Such connected clients should not have received any warrants in a placement without HKEx's prior written consent. Li did not seek consent or tell South Capital about these discretionary agreements so that it could seek consent.

In addition, Li conducted personal trades via his wife's account without disclosing them to South Capital. This deprived South Capital of the opportunity to monitor Li's trades to prevent any conflict of interests.

Li's failings have impugned his fitness and properness. The SFC therefore decides to reprimand him.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "The market is ever changing. New products like derivative warrants and new rules and regulations will appear from time to time. Before entering into a new business area, registered persons must understand and comply with the relevant rules and regulations. We will discipline registered persons who breach regulatory requirements. Ignorance of new rules or regulations is definitely not an excuse. It is also important for brokerage houses to be aware of any personal trades conducted by their staff for the sake of preventing any possible conflict of interests. Staff who hide their trades from their employers can expect punishment."

Ends

Notes :

1. HKEx's Placing Guidelines were repealed in December 2001.
2. "Discretionary managed portfolio" is defined in paragraph 14(3) of HKEx's Placing Guidelines.

證監會譴責李翔違反權證配售規定及隱瞞僱主進行個人交易

2003年3月28日

證監會已譴責南方中天經紀有限公司(現稱南方證券(香港)有限公司)的證券交易商代表李翔。

譴責行動是經查訊後作出的。證監會在有關查訊中發現，在2000年5月至9月期間，李氏與4名身為其親戚的客戶訂立全權委託協議。然後憑藉這些全權委託協議，代有關客戶認購10隻不同的衍生權證。根據香港交易及結算所有限公司當時適用的衍生權證配售指引(備註1)，任何配售代理人的職員近親，倘若其帳戶是根據全權管理投資組合協議操作(備註2)，即屬關連客戶。該等關連客戶除非事先獲得香港交易所書面同意，否則不得在配售活動中獲取任何權證。李氏並沒有徵求南方中天同意或告訴南方中天有關該等全權委託協議，以便讓其取得香港交易所的允許。

此外，李氏又透過其妻子的帳戶進行個人交易而沒有向南方中天作出披露。這做法使南方中天失去監察李氏交易的機會，以防止任何利益衝突發生。

李氏的缺失使其適當人選資格受到質疑，證監會因此決定譴責他。

證監會法規執行部執行董事李顯能表示：“市場情況瞬息萬變，新產品如衍生權證及新規則和新規例亦會不時推出。註冊人在加入新業務領域之前，必須明白及遵守有關的規則和規例。本會將對任何違反規管要求的註冊人採取紀律行動。對新規則或新規例不知情，絕非合法的辯解。此外，經紀行知悉其職員進行的個人交易亦相當重要，以防止任何可能發生的利益衝突。向僱主隱瞞其個人交易的職員將會受到處分。”

完

編輯備註：

1. 香港交易所的衍生權證配售指引已於2001年12月廢除。
2. "全權管理投資組合"的定義在香港交易所配售指引第14(3)段內界定。

最後更新日期：2012年8月1日