
Enforcement News

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26 April 2006

SFC Bans Chau Sik Ki from Re-entering the Industry for Failures to Comply with the SFO and to Act in His Client's Interests

The SFC has prohibited Mr Chau Sik Ki from applying to be a licensed representative or seeking to act as a relevant individual for a registered institution for four months from 26 April 2006 to 25 August 2006 (Note 1).

The disciplinary action follows Chau's conviction after trial for making unsolicited calls inducing a person to enter into agreement to trade in futures contracts while acting as a licensed representative of Tanrich Futures Limited (Note 2).

The SFC found that Chau's cold calling was not an isolated incident. He had been making calls to prospective clients, with whom Chau had no acquaintance, and asking them for meetings to introduce them to futures trading.

During the investigation, the SFC also found that Chau had provided discretionary account services to a client against his employer's policies and failed to obtain proper written authorisation from the client. In conducting the discretionary trading, Chau also failed to exercise due skill, care and diligence and act in the interests of his client by

- holding simultaneously equal long and short positions in the same futures contract without any reasonable explanations (Note 3);
- taking trading instructions from an unauthorised third party; and
- not complying with the requirements for discretionary account services under the SFC's Code of Conduct.

The SFC concludes that Chau has been guilty of misconduct and his fitness and properness has been called into question. In deciding the penalty, the SFC has taken into account that Chau is currently not licensed and his co-operation in

settling the disciplinary proceedings. The SFC considers that it is in the interest of the investing public and in the public interest to settle its disciplinary action against Chau.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Under the SFO, a licensed person cannot escape the disciplinary regime simply by leaving the industry. Cold calling is serious misconduct. The SFC will prosecute cold calling activities discovered."

"In offering discretionary account services, a licensed representative must obtain prior approval from the senior management of their employer and comply with the requirements under the Code of Conduct, in particular there should be no discretionary trading without proper written client authorisation. Moreover, the discretionary trading decisions have to be reasonable in the circumstances and in the best interests of the client. Holding equal long and short positions of the same futures contract at the same time does not appear to serve any genuine economic purpose. Investors should exercise judgment and should not take it for granted that the trading strategies recommended to them or the discretionary transactions conducted on their behalf are always suitable," Mr Linning added.

Ends

Notes:

1. Chau was licensed under the Securities and Futures Ordinance to carry on Type 2 (dealing in futures contracts), Type 5 (advising on futures contracts) and Type 9 (asset management) regulated activities and was a representative accredited to Tanrich Futures. Chau left Tanrich Futures in October 2003 and is not currently licensed.
2. Please see [SFC press release dated 24 January 2006](#) for details.
3. Simultaneous holding of equal long and short positions is commonly known as "locking". For further information regarding locking, please refer to the March 2005 issue of Dr Wise's Column entitled "[Look Before You Lock](#)", available on the InvestEd website at www.InvestEd.hk.

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