

SFC reprimands and fines Winnie Pang Wai Yan

14 Aug 2014

The Securities and Futures Commission (SFC) has reprimanded Ms Winnie Pang Wai Yan and fined her \$120,000 for negligence in handling a client's trade orders (Note 1).

Pang was a client advisor assistant at UBS AG at the material time. In December 2009, a client at UBS AG wanted to sell his shares in a stock to an identified buyer at agreed amounts and prices through manual cross trades. Instead of placing cross trades as initially instructed by the client, Pang coordinated with the buyer to conduct a series of on-exchange matched trades between 3 and 8 December 2009 (Note 2).

The SFC found that, in handling the client's orders, Pang did not:

- exercise sufficient care in making enquiries in relation to the relevant transactions to ascertain the client's intention;
- report the matter to the Compliance Department of UBS AG; and
- refrain from acting on the client's instructions before she was satisfied that the orders and their execution did not affect the best interests of the integrity of the market.

The SFC considers that Pang's failures called into question her fitness and properness as a registered person.

In deciding the disciplinary sanction, the SFC took into account:

- Pang's financial situation;
- that Pang did not make any personal benefit out of the transactions in question;
- that there is insufficient evidence to prove to the requisite standard that the matched trades were carried out with manipulative intent;
- that the matched trades had minimal impact on the nominal price of the stock;
- that Pang co-operated with the SFC in resolving the disciplinary action; and
- that Pang has an otherwise clean disciplinary record with the SFC.

End

Notes:

1. Pang has been registered as a relevant individual with the Hong Kong Monetary Authority and engaged by UBS AG to carry on Type 1 (dealing in securities) regulated activity since 20 February 2006.
2. Under section 274(5)(b) and section 295(5)(b) of the Securities and Futures Ordinance, a person may have committed the offence of false trading or be regarded as having engaged in the market misconduct of false trading if a person offers to sell securities at a price that is substantially the same as the price at which he has made or proposes to make, or he knows an associate of his has made or proposes to make, an offer to buy substantially the same number of securities, unless the transaction in question is an off-market transaction. This type of trading is commonly known as matched orders.

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

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證監會譴責彭慧欣並處以罰款

2014年8月14日

證券及期貨事務監察委員會（證監會）就彭慧欣（女）在處理一名客戶的買賣盤時疏忽職守，向其作出譴責及罰款120,000元（註1）。

彭在關鍵時間是UBS AG的客戶顧問助理。在2009年12月，UBS AG的一名客戶欲透過人手交叉盤，按協定的數量及價格向一名指定買方出售某公司的股份。彭沒有按客戶原本的指示發出交叉盤，反而在2009年12月3日至8日期間，與該買方配合以進行一連串場內對盤交易（註2）。

證監會裁斷，彭在處理客戶指示時沒有：

- 充分審慎地就相關交易作出查詢，以確定客戶的意願；
- 向UBS AG的合規部匯報有關事宜；及
- 在未信納該客戶的指示及其執行不會影響市場廉潔穩健的最佳利益前，拒絕按客戶指示行事。

證監會認為，彭的缺失令她作為註冊人的適當人選資格受到質疑。

證監會在釐定罰則時，已考慮到：

- 彭的財政狀況；
- 彭在上述交易中沒有獲得任何個人利益；
- 沒有足夠而達致舉證準則的證據，可證明該等對盤交易是基於操控動機而進行；
- 該等對盤交易對該公司股份的按盤價影響輕微；
- 彭在與證監會解決紀律處分行動一事上表現合作；及
- 彭以往並無遭受證監會紀律處分的紀錄。

完

備註：

1. 彭自2006年2月20日起，是獲香港金融管理局註冊的有關人士，並受聘於UBS AG以進行第1類（證券交易）受規管活動。
2. 根據《證券及期貨條例》第274(5)(b)及第295(5)(b)條，任何人要約以某個價格售賣證券，而該價格與該人已要約或擬要約購買數目大致相同的證券的買入價大致相同，或與就該人所知一名該人的有聯繫者已要約或擬要約購買數目大致相同的證券的買入價大致相同，則除非有關交易屬場外交易，否則該人可能已干犯虛假交易罪或被視為曾從事涉及虛假交易的市場失當行為。這類交易通常稱為對盤交易。

有關上述事宜的紀律處分行動聲明載於證監會網站

最後更新日期：2014年8月14日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has taken the following disciplinary action against Pang Wai Yan Winnie¹ (**Pang**), pursuant to section 196 of the Securities and Futures Ordinance (**SFO**):
 - (a) publicly reprimanded Pang; and
 - (b) imposed a financial penalty of HK\$120,000 on Pang.
2. The SFC found that Pang, while being employed by UBS AG (**UBS**), did not act with due skill, care and diligence, in the best interests of the client and the integrity of the market in handling the client's orders.

Summary of Facts

The pre-arranged matched trades

3. The SFC's investigation revealed that, on 2, 3, 7 and 8 December 2009, numerous sell orders placed by UBS for a client (the **Client**) in respect of the shares of a company listed in Hong Kong (the **Company**) were matched with buy orders entered by a counterparty (the **Counterparty**) through coordination among the staff of UBS and representatives of the Counterparty (**Matched Trades**).
4. The trading data revealed that the Counterparty had taken up all or most of UBS' sell orders placed for the Client on these days by inputting buy orders, at the same price and quantity as the relevant sell orders, almost immediately after UBS placed the relevant sell orders.
5. At the material time, Pang was an assistant to client advisors at UBS. She provided assistance in handling and processing client orders.

The order placing arrangement

6. On 3 December 2009, the Client called Pang and asked her whether UBS could conduct a manual trade to sell his shares of the Company to the Counterparty. Pang responded that she had to check.
7. Subsequently, one of the representatives of the Counterparty contacted the client advisor who was responsible for the Client's account. In the telephone conversation, the representative suggested that UBS might place a sell order on the market instead of conducting a manual trade for the Client, and asked the client advisor to contact him before placing the sell order.
8. Upon the Client's instructions and after confirming the sell order with the Client, Pang informed the representative of the Counterparty that she was going to place the order, and then inputted the sell order into the trading system.

¹ Pang is an individual whose name has been entered in the register maintained under section 20 of the Banking Ordinance as a person engaged by UBS AG in respect of Type 1 (dealing in securities) regulated activity since 20 February 2006.

9. Later that day, the Client instructed Pang to place another sell order in respect of the shares of the Company and told her to coordinate with the Counterparty on the transaction. Pang acted on the Client's instructions and confirmed details of the sell order with the Counterparty before she placed the relevant order.
10. Similar order placing pattern was observed on both 7 December 2009 and 8 December 2009. On each occasion, Pang discussed the Client's order details with the representatives of the Counterparty before placing the orders for the Client upon the Client's instructions.

Breaches and reasons for action

11. Under the SFO, a person may have committed the offence of false trading or be regarded as having engaged in the market misconduct of false trading if a person offers to sell securities at a price that is substantially the same as the price at which he has made or proposes to make, or he knows an associate of his has made or proposes to make, an offer to buy substantially the same number of securities, and vice versa, unless the transaction in question is an off-market transaction². This type of trading is commonly known as matched orders.
12. According to UBS' internal policies, the entering of matched orders was prohibited and staff was required to contact the Compliance Department for approval of cross trade. Pang knew or ought to have known about these requirements/prohibitions at the material time given the training sessions she had attended at UBS.
13. In handling the Matched Trades conducted on 3, 7 and 8 December 2009, Pang did not:
 - (a) make sufficient enquiries on the relevant transactions to ascertain the client's intention;
 - (b) report the matter to the Compliance Department of UBS; and
 - (c) refrain from acting on the Client's instructions before she was satisfied that the orders and their execution did not affect the best interests of the integrity of the market.

Conclusion

14. General Principle 2 (Diligence) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) requires registered persons to act with due skill, care and diligence, in the best interests of their clients and the integrity of the market, when conducting their business activities.
15. Having considered all the circumstances, the SFC is of the view that Pang had been negligent in handling the Client's orders and did not meet the standard expected of her under General Principle 2 of the Code of Conduct. Accordingly, the SFC has decided to take the disciplinary action against Pang described in paragraph 1 above.

² See section 274(5)(b) and section 295(5)(b) of the SFO.

16. In deciding the appropriate sanction, the SFC has taken into account all relevant considerations, including:
- (a) Pang's financial situation;
 - (b) Pang did not make any personal benefit out of the transactions in question;
 - (c) there is insufficient evidence to prove to the requisite standard that the Matched Trades were carried out with manipulative intent;
 - (d) the Matched Trades had minimal impact on the nominal price of the shares of the Company;
 - (e) Pang co-operated with the SFC in resolving the disciplinary action;
and
 - (f) Pang has no disciplinary record with the SFC.