

SFC bans Liu Hsiang-wen for eight months

25 Jan 2016

The Securities and Futures Commission (SFC) has banned Ms Liu Hsiang-wen from re-entering the industry for eight months from 19 January 2016 to 18 September 2016 (Note 1).

The SFC found that Liu had failed to notify the SFC of her criminal conviction in Taiwan in 2010 for promoting and selling offshore funds to Taiwan investors without regulatory approval when she was a licensed representative accredited to CITIC Securities Brokerage (HK) Limited and CITIC Securities Futures (HK) Limited (Notes 2 & 3).

The SFC also found that Liu had made false declarations to the Bank of East Asia Limited, her subsequent employer, in that she did not disclose the criminal conviction in the job application form and self-declaration form submitted to the bank in 2012.

The Hong Kong Monetary Authority has provided assistance in the investigation of this case.

End

Notes:

1. Liu was licensed under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities when she was accredited to CITIC Securities Brokerage (HK) Limited and CITIC Securities Futures (HK) Limited from 11 June 2010 and 24 November 2011, respectively, to 1 June 2012. Liu was a relevant individual engaged by the Bank of East Asia Limited to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities under the SFO between 17 October 2012 and 8 September 2014. Liu is currently not licensed by the SFC or registered with the Hong Kong Monetary Authority.
2. Section 4 of the Securities and Futures (Licensing and Registration) (Information) Rules requires a licensed representative to give notice in writing to the SFC within seven days where there is change to the relevant information, including criminal charge in Hong Kong or elsewhere, of the licensed representative.
3. Liu pleaded guilty to a charge for contravention of Article 16 of Taiwan's Securities Investment Trust and Consulting Act and was sentenced by the Taiwan Taipei District Court on 4 November 2010 to four months' imprisonment and a fine of NT\$1.2 million, suspended for four years. Liu was also ordered to pay a total sum of NT\$300,000 to Taiwan's National Treasury.

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

Page last updated : 25 Jan 2016

證監會禁止劉湘雯重投業界八個月

2016年1月25日

證券及期貨事務監察委員會（證監會）禁止劉湘雯（女）重投業界，為期八個月，由2016年1月19日起至2016年9月18日止（註1）。

證監會發現，劉在作為隸屬於中信証券經紀（香港）有限公司及中信証券期貨（香港）有限公司的持牌代表期間，並沒有通知證監會她曾於2010年因為在未獲得監管機構批准下向台灣投資者推廣及銷售境外基金而在台灣被刑事定罪（註2及3）。

證監會亦發現，劉向其後來的僱主東亞銀行有限公司作出虛假聲明，未有在於2012年提交予該銀行的職位申請表格及自行聲明表格中，披露她曾被刑事定罪。

香港金融管理局曾就本案的調查提供協助。

完

備註：

1. 劉曾於2010年6月11日至2012年6月1日及2011年11月24日至2012年6月1日分別隸屬中信証券經紀（香港）有限公司及中信証券期貨（香港）有限公司，並根據《證券及期貨條例》獲發牌進行第1類（證券交易）及第2類（期貨合約交易）受規管活動。在2012年10月17日至2014年9月8日期間，劉為受聘於東亞銀行有限公司進行《證券及期貨條例》下第1類（證券交易）及第4類（就證券提供意見）受規管活動的有關人士。劉現時並非證監會持牌人，亦非註冊於香港金融管理局的人士。
2. 《證券及期貨(發牌及註冊)(資料)規則》第4條規定，如持牌代表的有關資料（包括於香港或其他地方的刑事控罪）有所改變，便須在發生改變後的七日內向證監會發出書面通知。
3. 劉承認違反台灣《證券投資信託及顧問法》第16條的控罪，並於2010年11月4日被台灣台北地方法院判處監禁四個月及罰款新台幣120萬元，緩刑四年。劉亦被命令須向台灣公庫合共繳付新台幣30萬元。

有關紀律處分行動聲明載於證監會網站

最後更新日期：2016年1月25日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Ms Liu Hsiang-wen (**Liu**)¹ for a period of eight months pursuant to sections 194 and 196 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken because Liu:
 - (a) failed to notify the SFC within seven business days after she was convicted of an offence in Taiwan when she was licensed as a representative and accredited to CITIC Securities Brokerage (HK) Limited (**CITIC Securities**) and CITIC Securities Futures (HK) Limited (**CITIC Futures**) (collectively, **CITIC**); and
 - (b) made a false declaration to the Bank of East Asia Limited (**BEA**) in July and September 2012 by not disclosing her conviction in Taiwan in her application form for employment and her self-declaration form as a proposed relevant individual.

Summary of Facts

Conviction in Taiwan

3. On 9 August 2010, the Taipei District Prosecutors Office served upon Liu a summons for contravention of Taiwan's Securities Investment Trust and Consulting Act (the **Act**) by promoting and selling offshore funds to various investors in Taiwan without the approval of Taiwan's Securities and Futures Bureau, Financial Supervisory Commission whilst she was a business manager with Concord Investments International Limited (**Taiwan Criminal Proceedings**).
4. Liu pleaded guilty and was sentenced by the Taiwan Taipei District Court on 4 November 2010 to four months' imprisonment and a fine of NT\$1.2 million, suspended for four years. She was also ordered to pay a total sum of NT\$300,000 to Taiwan's National Treasury (the **Judgment**).
5. The Taipei District Prosecutors Office filed an appeal against the Judgment to the Taiwan High Court. However, the appeal was dismissed on 4 March 2011 and the Judgment handed down by the Taiwan Taipei District Court on 4 November 2010 was upheld (the **Appeal Judgment**).

¹ Liu was licensed under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities when she was accredited to CITIC Securities Brokerage (HK) Limited and CITIC Securities Futures (HK) Limited from 11 June 2010 and 24 November 2011 respectively to 1 June 2012. Liu was formerly registered as a relevant individual and engaged by the Bank of East Asia Limited to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities under the SFO between 17 October 2012 and 8 September 2014. Liu is currently not licensed by the SFC or registered with the Hong Kong Monetary Authority.

Failure to notify the SFC of criminal conviction

6. Liu was a manager of CITIC responsible for securities trading between 5 June 2010 and 1 June 2012.
7. Section 4 of the Securities and Futures (Licensing and Registration) (Information) Rules (**Information Rules**) requires a licensed representative to give notice in writing to the SFC when there is change to the relevant information of the licensed representative within seven business days after the change. Pursuant to Schedules 1 and 3 of the Information Rules, Liu's charge and subsequent conviction for promoting and selling offshore funds without regulatory approval in Taiwan constitute relevant information which should have been disclosed to the SFC.
8. Liu was under a legal obligation to provide notification by 16 August 2010 (7 days after the summons in respect of the Taiwan Criminal Proceedings was served on her on 9 August 2010). Liu's failure to notify the SFC is a breach of section 4 of the Information Rules.

False declaration to the BEA

9. Liu joined the Private Banking Department of the BEA as a relationship manager in September 2012.
10. Liu submitted an "Application Form for Employment" to the BEA on 25 July 2012 (**BEA Employment Form**) and a "Self-declaration Form from a Proposed Relevant Individual" on 10 September 2012 (**BEA Self-Declaration Form**) (collectively **BEA Forms**). Liu made a false declaration in the BEA Forms by not disclosing her conviction in Taiwan.
11. Liu made the above declaration in the BEA Self-Declaration Form for the purpose of registration as a relevant individual of BEA. Liu was eventually registered as a relevant individual with the HKMA on 17 October 2012.
12. Liu eventually disclosed her conviction record in Taiwan on 5 September 2014 to her then supervisor at BEA when she received a letter from the SFC in around August 2014 informing her of its investigation into her failure to disclose her conviction in Taiwan to the SFC. Liu resigned from the BEA on 8 September 2014.

Conclusion

13. Having considered all the circumstances, the SFC is of the view that Liu's conduct has called into question her fitness and properness to remain licensed and has decided to take disciplinary action against Liu as described in paragraph 1.
14. In determining the appropriate sanction, the SFC took into account all relevant circumstances, including that:
 - (a) Liu's failure to notify the SFC of her overseas criminal conviction record was a deliberate, or at least reckless, act on her part;
 - (b) Liu admitted her misconduct and was deeply remorseful; and
 - (c) Liu has an otherwise clean disciplinary record.

紀律處分行動聲明

紀律處分行動

1. 證券及期貨事務監察委員會（**證監會**）根據《證券及期貨條例》第 194 及 196 條禁止劉湘雯（**劉**）¹重投業界，為期八個月。
2. 證監會採取上述紀律處分行動，是因為劉：
 - (a) 在她作為隸屬於中信証券經紀（香港）有限公司（**中信証券**）及中信証券期貨（香港）有限公司（**中信期貨**）（統稱**中信**）的持牌代表期間，沒有於她在台灣被判犯罪後七個營業日內通知證監會；及
 - (b) 於 2012 年 7 月及 9 月向東亞銀行有限公司（**東亞**）作出虛假聲明，沒有在其職位申請表格及作為建議有關人士的自行聲明表格中，披露她曾於台灣被定罪。

事實摘要

於台灣被定罪

3. 2010 年 8 月 9 日，台北地方法院檢察署向劉發出傳票，指劉於任職康和投資國際股份有限公司業務經理期間，在未獲得台灣金融監督管理委員會證券期貨局批准下，於台灣向多名投資者推介及銷售境外基金，違反了台灣《證券投資信託及顧問法》（**該法例**）（**台灣刑事法律程序**）。
4. 劉承認控罪，並於 2010 年 11 月 4 日被台灣台北地方法院判處監禁四個月及罰款新台幣 120 萬元，緩刑四年。她亦被命令須向台灣公庫合共繳付新台幣 30 萬元（**該項判決**）。
5. 台北地方法院檢察署就該項判決向台灣高等法院提出上訴。然而，台灣高等法院於 2011 年 3 月 4 日駁回該項上訴，並維持台灣台北地方法院於 2010 年 11 月 4 日作出的該項判決（**上訴判決**）。

未能就刑事定罪通知證監會

6. 劉於 2010 年 6 月 5 日至 2012 年 6 月 1 日期間為**中信**的經理，負責證券交易。
7. 《證券及期貨(發牌及註冊)(資料)規則》（《**發牌資料規則**》）第 4 條規定，如持牌代表的有關資料有所改變，便須在發生改變後七個營業日內向證監會發出書面通知。根據《發牌資料規則》附表 1 及 3，劉於台灣被控在未獲監管機構批准下推廣及銷售境外基金以及於其後被定罪一事，均構成有關資料，本應須向證監會披露。

¹ 劉曾於 2010 年 6 月 11 日至 2012 年 6 月 1 日及 2011 年 11 月 24 日至 2012 年 6 月 1 日分別隸屬**中信証券經紀（香港）有限公司**及**中信証券期貨（香港）有限公司**，並根據《證券及期貨條例》獲發牌進行第 1 類（證券交易）及第 2 類（期貨合約交易）受規管活動。劉曾於 2012 年 10 月 17 日至 2014 年 9 月 8 日期間註冊為有關人士，並受聘於東亞銀行有限公司進行《證券及期貨條例》下第 1 類（證券交易）及第 4 類（就證券提供意見）受規管活動。劉現時並非證監會持牌人，亦非註冊於香港金融管理局的人士。

8. 劉有法律責任於 2010 年 8 月 16 日（有關台灣刑事法律程序的傳票於 2010 年 8 月 9 日向她發出後的第七日）前作出通知。劉沒有通知證監會，違反了《發牌資料規則》第 4 條。

向東亞作出虛假聲明

9. 劉於 2012 年 9 月加入東亞的私人銀行部擔任客戶經理。
10. 劉於 2012 年 7 月 25 日向東亞提交一份“職位申請表格”（東亞職位表格），並於 2012 年 9 月 10 日提交一份“建議有關人士的自行聲明表格”（東亞自行聲明表格）（統稱東亞表格）。劉在東亞表格中作出虛假聲明，並無披露她於台灣被定罪一事。
11. 劉在東亞自行聲明表格中作出上述聲明，以圖獲註冊為東亞的有關人士。劉最終在 2012 年 10 月 17 日獲香港金融管理局註冊為有關人士。
12. 劉於 2014 年 8 月左右接獲證監會的函件，通知她本會正在對她未有向證監會披露其在台灣被定罪一事進行調查，她遂於 2014 年 9 月 5 日向其當時於東亞的上司披露其於台灣的定罪紀錄。劉於 2014 年 9 月 8 日辭任東亞職務。

結論

13. 證監會經考慮所有情況後，認為劉的行為令其作為繼續獲發牌的適當人選的資格受到質疑，並決定對劉採取上文第 1 段所述的紀律處分行動。
14. 證監會在決定適當的制裁時，已考慮到所有相關情況，當中包括：
 - (a) 劉沒有知會證監會其海外刑事定罪紀錄，是她的蓄意行為（或至少為罔顧後果的行為）；
 - (b) 劉承認她的失當行為，並深感後悔；及
 - (c) 劉以往並無遭受紀律處分的紀錄。