

SFC bans Cham Nga Yin for life

9 Aug 2018

The Securities and Futures Commission (SFC) has banned Ms Cham Nga Yin from re-entering the industry for life for misappropriation of clients' money. Cham was a former licensed representative of Tanrich Futures Limited (Tanrich Futures), now known as Southwest Securities (HK) Futures Limited (Note 1).

The SFC found that Cham succeeded in persuading two clients to open accounts at Tanrich Futures in mid-2014. The clients went on to deposit \$40,000 and \$200,000, respectively, into Tanrich Futures. Instead of completing the account opening process for the clients, Cham misrepresented to Tanrich Futures that the deposits were made by her cousin, whose account at Tanrich Futures was under her control.

Subsequently, a sum of \$137,500 out of the \$240,000 deposits from the two clients was transferred to Cham's personal bank account via her cousin's Tanrich Futures account and personal bank account between June and August 2014.

Cham's misappropriation of the deposit of one client was uncovered in August 2014 when the client's husband called Tanrich Futures to enquire about his wife's account. Cham eventually returned \$40,000 to the client upon Tanrich Futures' request.

In September 2014, Cham resigned from Tanrich Futures, but she continued to keep the deposit of the other client and provided that client with two forged account statements in November 2014 and April 2015 in order to conceal her misconduct. Tanrich Futures did not find out Cham's misappropriation of that client's deposit until 28 April 2015, when it received the client's enquiry about her account. Cham eventually returned \$200,000 to the client.

The SFC decided to ban Cham for life as her dishonesty was in breach of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct), which called into question her fitness and properness to be a licensed person (Notes 2 & 3).

End

Notes:

1. Cham was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities. She was accredited to Tanrich Securities Company Limited, now known as Southwest Securities (HK) Brokerage Limited, to carry on Type 1 (dealing in securities) regulated activity from 25 May 2006 to 30 September 2014 and Tanrich Futures to carry on Type 2 (dealing in futures contracts) regulated activity from 30 September 2005 to 30 September 2014. Cham is currently not licensed by the SFC.
2. General Principle 1 (honesty and fairness) of the Code of Conduct provides that a licensed person should act honestly, fairly, and in the best interests of its clients and the integrity of the market.
3. General Principle 8 (client assets) of the Code of Conduct provides that a licensed person should ensure that client assets are promptly and properly accounted for and adequately safeguarded.

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

Page last updated : 9 Aug 2018

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Ms Cham Nga Yin (**Cham**) from re-entering the industry for life pursuant to section 194(1)(iv) of the Securities and Futures Ordinance (**SFO**).
2. Cham was licensed under the SFO to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities. She was accredited to Tanrich Securities Company Limited, now known as Southwest Securities (HK) Brokerage Limited, to carry on Type 1 (dealing in securities) regulated activity from 25 May 2006 to 30 September 2014 and Tanrich Futures Limited (**Tanrich Futures**), now known as Southwest Securities (HK) Futures Limited, to carry on Type 2 (dealing in futures contracts) regulated activity from 30 September 2005 to 30 September 2014. Cham is currently not licensed by the SFC.
3. The SFC found that between June 2014 and May 2015, Cham misappropriated an aggregate sum of HK\$240,000 from two prospective clients of Tanrich Futures and provided forged account statements to one of the prospective clients, in breach of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**), which provides that a licensed person should:
 - (a) act honestly, fairly, and in the best interests of its clients and the integrity of the market (General Principle 1);
 - (b) ensure that client assets are promptly and properly accounted for and adequately safeguarded (General Principle 8);
 - (c) ensure that any representations made and information provided to clients are accurate and not misleading (paragraph 2.1); and
 - (d) in handling client assets, act to ensure that client assets are accounted for properly and promptly. Where the licensed person is in possession or control of client assets, the licensed person should ensure that client assets are adequately safeguarded (paragraph 11.1(a)).

Summary of facts

4. Cham was a sales representative of Tanrich Futures.
5. In about mid-2014, Cham solicited two prospective clients, A and B, to open accounts at Tanrich Futures. Cham met them separately and obtained from each of them a completed account opening form. Unknown to A and B, Cham did not complete the account opening process for them.
6. Believing that Cham had opened futures accounts for them, A and B transferred HK\$40,000 and HK\$200,000 respectively into Tanrich Futures' client account between June and August 2014 at the request of Cham. On each occasion,

Cham signed a deposit notice misrepresenting that the deposit was made by her cousin-cum-client, X. As a result, Tanrich Futures credited A's and B's deposits in the total sum of HK\$240,000 to X's account, which was under Cham's control.

7. Between June and August 2014, an aggregate amount of HK\$166,000 was withdrawn from X's account at Tanrich Futures and transferred to X's personal bank account. HK\$137,500 out of the sum of HK\$166,000 was eventually transferred to Cham's personal bank account.
8. On 20 August 2014, A's husband called Tanrich Futures and queried why A did not receive any account statements. He found out that A did not have any account at Tanrich Futures. When confronted by her supervisor, Cham claimed that she mistakenly credited A's deposit into X's account. Cham returned HK\$40,000 to A upon the request of Tanrich Futures.
9. Tanrich Futures commenced an internal investigation and suspended Cham from her duties. Cham resigned on 30 September 2014 without revealing to Tanrich Futures her misappropriation of B's money.
10. To mislead B into believing that she had an account at Tanrich Futures, Cham sent a photo of a purported monthly statement to B in November 2014 and misrepresented that B's account balance was HK\$258,637. Cham further provided another purported account statement to B in April 2015. Both purported statements were in fact fabricated by Cham.
11. On 28 April 2015, B called Tanrich Futures enquiring about her account and found that she did not have any account at Tanrich Futures and the account number printed on the forged statements belonged to another client. Cham eventually returned HK\$200,000 to B in May 2015.

Conclusion

12. By transferring A's and B's deposits via X's accounts to her personal bank account without authorization and providing forged account statements to B, Cham acted dishonestly and in complete disregard of the interests of her clients as well as her duties as a licensed person. Her conduct was in breach of General Principle 1, General Principle 8 and paragraphs 2.1 and 11.1(a) of the Code of Conduct, which called into question her fitness and properness to be licensed by the SFC.
13. In deciding the disciplinary sanction set out in paragraph 1, the SFC has taken into account all relevant circumstances, including:
 - (a) Cham's misconduct was deliberate, serious and dishonest;
 - (b) Cham returned the money to A and B only after her misconduct was uncovered;
 - (c) Cham had an otherwise clean disciplinary record with the SFC; and
 - (d) a deterrent message needs to be sent to the market.

[主頁](#) ▶ [新聞稿及公布](#) ▶ [新聞稿](#) ▶ [所有新聞稿](#)

證監會終身禁止湛雅妍重投業界

2018年8月9日

敦沛期貨有限公司（敦沛期貨，現稱為西證(香港)期貨有限公司）的前持牌代表湛雅妍（女）因挪用客戶資金而被證券及期貨事務監察委員會（證監會）終身禁止重投業界。（註1）。

證監會發現，湛於2014年中成功說服兩名客戶在敦沛期貨開立帳戶。該兩名客戶其後分別向敦沛期貨存入40,000元及200,000元款項。但湛並沒有替客戶完成開戶程序，而是向敦沛期貨假稱這兩筆款項是她表姐存入的，而她表姐的敦沛期貨帳戶乃由她所控制。

湛其後於2014年6月至8月期間，透過其表姐的敦沛期貨帳戶及個人銀行帳戶把兩名客戶240,000元的存款當中的137,500元轉至自己的個人銀行帳戶。

2014年8月，當其中一名客戶的丈夫致電敦沛期貨查詢他妻子的帳戶時，湛挪用該名客戶的存款一事被揭發。湛最終應敦沛期貨的要求向該客戶退還40,000元。

2014年9月，湛從敦沛期貨辭職，但她繼續保留另一名客戶的存款，並在2014年11月及2015年4月向這名客戶提供兩份偽造的帳戶結單，以掩飾其失當行為。直至2015年4月28日，敦沛期貨在接到這名客戶關於她帳戶的查詢時，才發現湛挪用了她的存款。湛最終向這名客戶退還200,000元。

湛的不誠實行為違反了《證券及期貨事務監察委員會持牌人或註冊人操守準則》（《操守準則》），令人質疑其作為持牌人的適當人選資格，證監會決定終身禁止她重投業界（註2及3）。

完

備註：

1. 湛曾根據《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。她在2006年5月25日至2014年9月30日期間隸屬敦沛證券有限公司（現稱為西證(香港)證券經紀有限公司）以進行第1類（證券交易）受規管活動，並且在2005年9月30日至2014年9月30日期間隸屬敦沛期貨以進行第2類（期貨合約交易）受規管活動。湛現時並非證監會持牌人。
2. 《操守準則》第1項一般原則（誠實及公平）規定，持牌人應以誠實、公平和維護客戶最佳利益的態度行事及確保市場廉潔穩健。
3. 《操守準則》第8項一般原則（客戶資產）規定，持牌人應確保將客戶的資產盡快及妥善地加以記帳，及令該等資產獲得充分的保障。

[有關紀律處分行動聲明載於證監會網站](#)

最後更新日期：2018年8月9日

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）依據《證券及期貨條例》第 194(1)(iv)條終身禁止湛雅妍（湛）重投業界。
2. 湛曾根據《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。她在 2006 年 5 月 25 日至 2014 年 9 月 30 日期間隸屬敦沛證券有限公司（現稱為西證(香港)證券經紀有限公司）以進行第 1 類（證券交易）受規管活動，並且在 2005 年 9 月 30 日至 2014 年 9 月 30 日期間隸屬敦沛期貨有限公司（敦沛期貨）（現稱為西證(香港)期貨有限公司）以進行第 2 類（期貨合約交易）受規管活動。湛現時並非證監會持牌人。
3. 證監會發現，湛在 2014 年 6 月至 2015 年 5 月期間，挪用了敦沛期貨的兩名潛在客戶合共 240,000 港元的款項，並向其中一名潛在客戶提供偽造帳戶結單，違反了《證券及期貨事務監察委員會持牌人或註冊人操守準則》（《操守準則》）。該準則規定持牌人：
 - (a) 應以誠實、公平和維護客戶最佳利益的態度行事及確保市場廉潔穩健（第 1 項一般原則）；
 - (b) 應確保將客戶的資產盡快及妥善地加以記帳，並且令該等資產獲得充分的保障（第 8 項一般原則）；
 - (c) 應確保向其客戶作出的陳述和提供的資料，均屬準確及沒有誤導成分（第 2.1 段）；及
 - (d) 在處理客戶資產時，應確保妥善及盡快處理客戶的資產並加以記帳。若持牌人管有或控制客戶資產，便應確保客戶資產獲得充分的保障（第 11.1(a)段）。

事實摘要

4. 湛曾是敦沛期貨的一名營業代表。
5. 大約在 2014 年中，湛招攬兩名潛在客戶 A 及 B 在敦沛期貨開立帳戶。湛與她們分別會面，並從二人手中各自拿到一份已填妥的開戶表格。湛沒有替她們完成開戶程序，但 A 及 B 並不知情。
6. A 及 B 相信湛已替她們開設期貨帳戶，並在湛的要求下，於 2014 年 6 月至 8 月期間分別將 40,000 港元及 200,000 港元轉帳到敦沛期貨的客戶帳戶。湛每次都簽署存款通知單，並假稱有關存款是由她的表姐兼客戶 X 存入的。結果，敦沛期貨將 A 及 B 總額為 240,000 港元的存款記入 X 的帳戶，而該帳戶乃由湛所控制。

7. 2014年6月至8月期間，有合共166,000港元的款項從X的敦沛期貨帳戶中提取並轉入X的個人銀行帳戶。該166,000港元總額當中的137,500港元最終被轉至湛的個人銀行帳戶。
8. 2014年8月20日，A的丈夫致電敦沛期貨，詢問為何A沒有收到任何帳戶結單，才發現A在敦沛期貨並無任何帳戶。湛在被其主管質問時，聲稱她錯誤地將A的存款記入了X的帳戶。湛應敦沛期貨的要求向A退還40,000港元。
9. 敦沛期貨展開內部調查，並暫停了湛的職務。湛於2014年9月30日辭職時沒有向敦沛期貨透露她挪用了B的資金。
10. 為了令B誤信她在敦沛期貨持有帳戶，湛於2014年11月向B發送一張充作月結單的文件的照片，並假稱B的帳戶結餘為258,637港元。湛在2015年4月進一步向B提供了另一份被充作帳戶結單的文件。兩份被充作結單的文件事實上都是由湛偽造的。
11. 2015年4月28日，B致電敦沛期貨查詢她的帳戶，發現她在敦沛期貨沒有任何帳戶，而列印於偽造結單上的帳號屬於另一名客戶。湛最終於2015年5月向B退還200,000港元。

結論

12. 湛以不誠實的方式行事，在未獲授權的情況下，將A及B的存款經由X的帳戶轉至她的個人銀行帳戶，並向B提供偽造的帳戶結單，完全無視其客戶的利益以及其作為持牌人的職責。她的行為違反了《操守準則》第1項一般原則、第8項一般原則以及第2.1和11.1(a)段，令人質疑其作為證監會持牌人的適當人選資格。
13. 證監會在決定第1段所述的紀律處分時，已考慮到所有相關情況，包括：
 - (a) 湛的失當行為屬故意、性質嚴重及不誠實；
 - (b) 湛在她的失當行為被揭發後才將款項退還給A及B；
 - (c) 湛過往並無遭受證監會紀律處分的紀錄；及
 - (d) 需要向市場傳遞具阻嚇力的訊息。