

SFC bans Chan Yiu Ting for 18 months

12 Aug 2020

The Securities and Futures Commission (SFC) has prohibited Mr Chan Yiu Ting, a former account executive of China Tonghai Securities Limited (CTSL), formerly known as Oceanwide Securities Company Limited and Quam Securities Company Limited, from re-entering the industry for 18 months from 12 August 2020 to 11 February 2022, for breach of the SFC's Code of Conduct (Note 1).

The disciplinary action follows an SFC investigation which found that between April 2011 and June 2018, Chan effected about 6,031 trades involving over \$573 million worth of shares in a client's account on a discretionary basis without obtaining the client's prior written authorization.

In doing so, he also failed to comply with the policies and procedures of CTSL in relation to discretionary accounts.

The SFC considers that Chan had failed to act with due skill, care and diligence and in the best interests of the client. The absence of written authorization for discretionary transactions was prejudicial to the client's interests as Chan's employer was prevented from monitoring and supervising the operation of the account and the client was deprived of protection against the risk of unauthorized trades carried out in her account (Notes 2 & 3).

In deciding on the disciplinary sanction, the SFC took into account all relevant circumstances, including the duration of Chan's misconduct and his otherwise clean disciplinary record.

End

Notes:

1. Chan 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 and accredited to CTSL from 3 May 2011 to 26 July 2018. Chan is currently not licensed by the SFC.
2. General Principle 2 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) provides that a licensed person should act with

due skill, care and diligence, in the best interests of its clients and integrity of the market in conducting its business activities.

3. Paragraph 7.1(a)(ii) of the Code of Conduct requires a licensed person to obtain a written authorization from its client before effecting transactions for a client without the client's specific authorization. Paragraph 7.1(c) of Code of Conduct requires a licensed person who has received an authority described under paragraph 7.1(a)(ii) to designate such accounts as "discretionary accounts". Paragraph 7.1(d) of the Code of Conduct requires the senior management of a licensed person to approve the opening of discretionary accounts.

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

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STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Chan Yiu Ting (**Chan**), a former account executive of China Tonghai Securities Limited¹ (**CTSL**), from re-entering the industry for a period of 18 months pursuant to section 194 of the Securities and Futures Ordinance.
2. The SFC found that Chan effected transactions in the account of a client of CTSL (**Account**) on a discretionary basis without written authorization from the client and failed to comply with the policies and procedures of CTSL in relation to discretionary accounts during the period from April 2011 to June 2018.
3. Chan's conduct was in breach of General Principle 2 and paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**).

Summary of facts

4. General Principle 2 (diligence) of the Code of Conduct requires a licensed person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market.
5. Paragraph 7.1(a) of the Code of Conduct requires a licensed person to obtain a written authorization before it can operate a discretionary account for a client. Paragraph 7.1(c) of the Code of Conduct requires a licensed person to designate such account as a discretionary account. Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of a discretionary account.
6. CTSL's compliance manual, which had a dedicated chapter on discretionary account policy, required a written authorization from a client if he or she wished to open a discretionary account and management approval for the opening of discretionary accounts.
7. CTSL's records showed that on 7 March 2011, a client signed a discretionary authority in favour of another account executive, Chan's brother. The discretionary authority was revoked on 29 April 2011, when there was a change of account executive of the Account from Chan's brother to him. However, the client did not execute another discretionary authority to authorize Chan to operate the Account. There were no documentation or records to indicate that Chan was authorized to manage the Account discretionarily.

¹ CTSL was formerly known as Oceanwide Securities Company Limited and Quam Securities Company Limited. On 14 September 2017, Quam Securities Company Limited changed its name to Oceanwide Securities Company Limited. On 29 November 2018, Oceanwide Securities Company Limited changed its name to CTSL.

8. In May 2018, CTSL's compliance department made enquiries with Chan about the Account. Chan held out that the Account was all along a discretionary account. However, CTSL's internal records indicated otherwise. CTSL therefore requested that Chan to ask the client to re-execute the discretionary authority and to give CTSL a written confirmation ratifying all trades carried out by Chan on her behalf since 30 April 2011. Notwithstanding CTSL's repeated requests, Chan failed to either contact or follow up the matter with the client.
9. The statements of the Account showed that there were a total of about 6,031 trades involving over HK\$573 million worth of shares during the period from April 2011 to June 2018. Chan claimed that he might have overlooked the fact that the discretionary authority only authorized his brother to manage the Account discretionarily until 29 April 2011. In any event, Chan accepted that he traded for the client on a discretionary basis for nearly seven years.

Conclusion

10. Chan has breached paragraph 7.1 of the Code of Conduct by effecting the transactions in the Account on a discretionary basis for nearly seven years without obtaining the client's written authorization. His conduct also fell short of the standard set out in General Principle 2 of the Code of Conduct. Conducting discretionary trading for a client without written authorization was not in the best interests of the client as Chan's employer was prevented from monitoring and supervising the operation of the account and the client was deprived of protection against the risk of unauthorized trades carried out in her account.
11. In reaching the decision to take the disciplinary action set out in paragraph 1 above, the SFC has taken into account all relevant circumstances of this case, including the duration of Chan's misconduct and his otherwise clean disciplinary record.