

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (SFC) has prohibited Chow Chun Tung (Chow)¹ from re-entering the industry for 5 years pursuant to section 194 of the Securities and Futures Ordinance (SFO).
2. Chow's conduct has called into question his fitness and properness to be licensed. His failures also constitute breaches of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct).
3. The SFC found that, while acting in his capacity as a licensed representative accredited to Phillip Securities (Hong Kong) Limited (Phillip Securities), Chow has:
 - (a) effected transactions in clients' accounts on a discretionary basis without any written authorisation from the clients;
 - (b) failed to ensure his recommendations for his clients to invest in derivative products were reasonable in all the circumstances;
 - (c) failed to assure himself that his clients understood the nature and risks of derivative products and had sufficient net worth to be able to assume the risks and bear the potential losses of trading in the products; and
 - (d) entered into a profit-sharing arrangement with his clients without the knowledge and consent of his employer.

Summary of Facts

4. During the period between October 2010 and January 2011, Chow organised and taught in seminars on stock option trading. Chow represented to his students that he could help them to generate a level of return that would be much higher than normal investment by trading stock options for them. He would charge 10% of the profit as "performance fee" on a quarterly basis.
5. After attending Chow's seminars, some students opened investment accounts with Phillip Securities. Chow was their account executive.
6. Investigation revealed that Chow had operated 33 students/clients' accounts with Phillip Securities on a discretionary basis. The clients did not sign any written authorisation authorising Chow to place orders for their accounts on a discretionary basis. The trading activities in their accounts, which were in fact conducted by Chow, were therefore not subject to monitoring by Phillip Securities, as required by the Code of Conduct.

¹ Chow was licensed under the SFO to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities between February 2007 and March 2012, during which he was accredited to Phillip Securities (Hong Kong) Limited. He is currently not a licensed person.

7. The evidence also showed that Chow had recommended his clients to invest in derivative options without:
 - (a) ensuring the recommended stock options were suitable for his clients. For example, Chow was aware that a client had no investment experience in securities and did not understand the nature and the risks of stock options. Despite this, Chow continued to conduct stock option trading for the client; and
 - (b) ensuring his clients were financially able to bear the associated risks of stock option trading. The losses that the clients suffered from trading in the stock options recommended by him were significant. For example, one of the clients had liquid asset of \$100,000 and net worth of \$250,000. The stock option trades recommended by Chow had led the client to incur an aggregate loss of approximately \$170,000, being \$70,000 more than her liquid asset and 68% of her personal net worth.
8. Some of Chow's clients had paid Chow a portion of their profits in the form of "performance fee". Chow had received these payments without the knowledge and consent of Phillip Securities.

Conclusion

9. Having considered all the circumstances, the SFC is of the view that Chow's conduct has impugned his fitness and properness to be licensed. Further, his conduct was in breach of paragraphs 5.2 (Know your client: reasonable advice), 5.3 (Know your client: derivative products) and 7.1 (Discretionary accounts) of the Code of Conduct.
10. In coming to the decision to take disciplinary action against Chow, the SFC has taken into account all relevant considerations, including:
 - (a) Chow exposed his clients to serious risks by recommending complex derivative products that were unsuitable for them. Consequently, these clients had invested significant portions of their available assets in complex derivative products which placed them at risk of losing their investment that they could not bear financially.
 - (b) Chow knew or ought to have known that it is inappropriate to enter into a profit-sharing arrangement with his clients for personal gain. As an account executive, he should not solicit or accept any commission from his clients without the permission of his employer.
 - (c) A lengthy prohibition is warranted in order to deter other market practitioners from conducting similar conduct in the future.