

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Cheung Chiu Hung Jacky (**Cheung**)¹ from re-entering the industry for a period of two years pursuant to section 196(1)(iii) of the Securities and Futures Ordinance.
2. Cheung was registered as a relevant individual and engaged by Hang Seng Bank Limited (**HSB**) between 8 May 2013 and 29 February 2016 to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 7 (providing automated trading services) regulated activities under the Securities and Futures Ordinance. Cheung is currently not registered with the Hong Kong Monetary Authority (**HKMA**) or licensed by the SFC.
3. The SFC found that in December 2015 and January 2016, Cheung conducted three unauthorized transactions in the accounts of a customer of HSB (**Customer**), and forged the Customer's signature on the instruction forms to facilitate the unauthorized transactions in breach of:
 - (a) General Principle 1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**), which provides that a licensed or registered person should act honestly, fairly, and in the best interests of its clients and the integrity of the market (General Principle 1 of the Code of Conduct); and
 - (b) Paragraph 7.1(a) of the Code of Conduct which provides that a licensed or registered person should not effect a transaction for a client unless before the transaction is effected: (i) the client or a person designated in writing by the client has specifically authorized the transaction; or: (ii) the client has given a written authorization to a licensed or registered person to effect transactions for the client without the client's specific authorization.
4. Cheung's conduct also called into question his fitness and properness to be registered as a relevant individual of a registered institution or licensed by the SFC, and his ability to perform regulated activities honestly and reliably.

Summary of Facts

5. Cheung was a relationship manager at a branch of HSB (**Branch**).
6. The Customer maintained an investment fund account (**Investment Account**), a personal consolidated bank account (**Consolidated Account**) and a credit card account (**Credit Card Account**) with HSB.

1st Unauthorized Transaction

7. An investment fund subscription and switching application form dated 15 January 2016 (**Fund Switching Form**) showed the Customer purportedly gave instructions to HSB to switch 37,724.855 units from a JP Morgan Asia

Fund (**JP Asia Fund**) to a JP Morgan Global Bond Fund (**JP Global Fund**) in the Investment Account.

8. On 18 January 2016, HSB completed the fund switch from the JP Asia Fund to the JP Global Fund in the Investment Account in accordance with the instructions on the Fund Switching Form.
9. In a meeting on 24 March 2016, the Customer told HSB that she did not authorize the switching of 37,724.855 units from the JP Asia Fund to the JP Global Fund on 15 January 2016. The Customer discovered the unauthorized fund switch after she received a confirmation letter from HSB of the transaction. The Customer also told HSB that she did not visit the Branch on 15 January 2016 nor signed the Fund Switching Form.
10. Cheung admitted the Customer did not authorize him to switch her funds from the JP Asia Fund to the JP Global Fund in the Investment Account. Cheung claimed he had discussed recent market volatility with the Customer and advised her to switch her funds to lower risk products to reduce her risks. Cheung further claimed the Customer agreed the reduction of risks and a balanced portfolio was a priority, and that she would revert to him later. When the Customer did not revert later that day, Cheung admitted he proceeded to complete the Fund Switching Form and forged the Customer's signature on the form to switch the funds from the JP Asia Fund to the JP Global Fund. When the Customer discovered the unauthorized fund switch a few days later, Cheung lied and told the Customer that, following a systems upgrade at HSB, he had the authority to switch funds for customers.

2nd and 3rd Unauthorized Transactions

11. Two account withdrawal forms both dated 15 December 2015 (**Account Withdrawal Forms**) showed the Customer purportedly signed the forms to transfer two separate sums, HK\$153,819.44 and HK\$2,190.20, from the Consolidated Account to the Credit Card Account (**Fund Transfers**). The Fund Transfers were executed on the same day.
12. The Customer informed HSB that she did not authorize the Fund Transfers.
13. Cheung claimed that the Customer sought his assistance in settling the outstanding balance in the Credit Card Account, and he therefore conducted the Fund Transfers to settle the outstanding balance. Cheung admitted he did not inform the Customer about the method that he would use to settle the outstanding balance in the Credit Card Account, but claimed he informed the Customer once the Fund Transfers were completed. Cheung further admitted he completed the information in the Account Withdrawal Forms and forged the Customer's signature on the forms without her knowledge and authorization.

Compensation paid by HSB

14. HSB reversed Cheung's unauthorized fund switch in the Investment Account at a loss of HK\$31,455.10. The loss was borne by HSB.

Conclusion

15. The SFC is of the view that Cheung's conduct was dishonest and in breach of General Principle 1 and paragraph 7.1(a) of the Code of Conduct, and called into question his fitness and properness to be registered with the HKMA or licensed by the SFC.
16. In deciding the disciplinary sanction set out in paragraph 1, the SFC has taken into account all relevant circumstances, including that Cheung's forging of the Customer's signatures on the Fund Switching Form and Account Withdrawal Forms to facilitate the unauthorized transactions was dishonest, his misconduct caused HSB to suffer a financial loss of HK\$31,455.10, and his otherwise clean disciplinary record.