



# SFC Enforcement Reporter

A monthly summary of SFC enforcement action

證監會 April 2004

## Highlights

### In March, the SFC:

- successfully prosecuted two companies and five people
- disciplined one licensee

## Prosecution

### Disclose your securities interests on time

Hotung Enterprises Ltd and its directors, Mr Eric Edward Hotung and Mr Ho Shu Wah, pleaded guilty to failing to disclose the initial investment and subsequent change in Hotung Enterprises' deemed interest in Cosmopolitan International Holdings Ltd within the prescribed period. They were fined and ordered to pay the SFC's investigation costs.

(Press release issued on 3 March 2004)

*Don't risk a criminal conviction for failing to disclose securities interests on time. The SFC reminds substantial shareholders that the disclosure requirements for notifiable securities interests and the reporting timeframe have been reduced to 5% and three business days respectively.*

### Further crackdowns on unlicensed dealing

Ms Yu Wai Fong pleaded guilty to soliciting by cold calling a client to enter into a leveraged foreign exchange trading contract and engaging in leveraged foreign exchange trading when not licensed. She also failed to inform the client of her unlicensed status. Hong Kong Forex Investment Ltd was found guilty after trial of allowing Yu to act as an unlicensed representative. Both were fined and ordered to pay the SFC's investigation costs.

(Press releases issued on 15 and 16 March 2004)

*The SFC views unlicensed activities extremely seriously as they jeopardise client assets and market integrity. People who abuse the integrity of the licensing system will face likely prosecution. Licensees who aid and abet such activities face disciplinary action too. Investors are reminded again to check if a person is licensed before using that person's services.*

### Don't cold call

Mr Lung Chai Yu pleaded guilty to making unsolicited calls to induce other people to enter into agreements to trade in commodity contracts on commodities exchanges in Japan. Lung was fined and ordered to pay the SFC's investigation costs.

(Press release issued on 17 March 2004)

### Non-disclosure of FRR deficiencies results in prosecution

Mr Lam Kwong Tim Spencer, the sole dealing director of Tai Wai Securities Limited, pleaded guilty to failing to notify the SFC that Tai Wai had not complied with the minimum liquid capital requirement under the Financial Resources Rules from 25 March to 28 March 2003. He was fined and ordered to pay the SFC's investigation costs. Tai Wai was ordered to be wound up by the High Court in October 2003.

(Press releases issued on 30 March 2004)

*Maintaining minimum liquid capital is a vital requirement for the protection of the investing public. Licensees who can't comply with this requirement must tell the SFC promptly; otherwise they and their responsible management will be prosecuted and face disciplinary action.*

## Discipline

### Suspension for mishandling of client accounts

The SFC suspended Ms Cheng She Ching, a licensed representative of Get Nice Investment Ltd and Get Nice Futures Company Ltd, for six weeks for failing to make inquiries with a client as to whether there were sufficient shares in the client's account before executing the client's sell order, and for failing to report a resulting error trade to Get Nice so that it could be booked into the Get Nice house account. Furthermore, Cheng did not explain the terms of Get Nice's standard written authorisation letter to her clients and advise them to delete the inapplicable terms. This resulted in the authorisation letter giving her more power than her clients had intended. Cheng also entered into an arrangement where her clients paid their settlement monies to her directly and Cheng would then issue personal cheques to settle their trades.

(Press release issued on 22 March 2004)

*There is no excuse for licensees not to comply with their firms' internal procedures. Such internal procedures are designed to protect the firms' dealing practice and to minimise the risk of fraud or misappropriation to clients. The SFC views the failure to comply with internal procedures seriously and licensees can expect disciplinary action.*

## General Enforcement Statistics

Since 1 April 2003, the SFC has successfully prosecuted 60 entities. There have been no acquittals. In the same period, the SFC disciplined 78 licensees for various regulatory breaches. The SFC also took disciplinary actions against 18 licensees which were eventually concluded with no formal sanction imposed. Disciplinary proceedings were also commenced and discontinued against a further eight deemed licensees who left their firms before the conclusion of the actions. A person's deemed licence is effectively revoked on the day the person leaves his or her firm. Under the transitional arrangements, which came into force on 1 April 2003, the SFC has no jurisdiction to continue with disciplinary proceedings against such a person. However, the person would be required to answer the SFC's concerns about him or her if he or she re-applies for a licence or other regulatory approval.

*If you want to know more, the SFC's press releases are available at [www.hksfc.org.hk](http://www.hksfc.org.hk).*

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