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SFC Suspends Howel G R Thomas for Conducting Manipulative Orders and Misleading Client

23 Feb 2004

The SFC has suspended Mr Howel G R Thomas, a licensed representative of CLSA Futures Ltd, for three months from 23 February 2004 to 22 May 2004.

The suspension follows an inquiry in which the SFC found that, on 6 September 2001, Thomas had failed to input a client's options order into the trading system on receipt of the order. Instead, he conducted an off-market cross trade with another client of CLSA and verbally confirmed with the clients that the order had been executed. In fact the order was not yet input to and registered with the Hong Kong Futures Exchange Limited. There were no records to show that the off-market cross trade had been concluded.

The market dropped sharply on that day and Thomas was unable to register the cross trade into the trading system at the specified price. To rectify the position, he registered a cross trade with the same order size through the trading system prior to the market closing on that day, but at a lower price (Trade 1). The trade was booked into the client's account without the client's knowledge and consent as to the alteration in execution price. At the market opening on the following day, he used CLSA's house account to execute a number of orders at higher prices which pushed up the options price and eventually executed another cross trade with the same order size at the client's specified price on the previous day (Trade 2). Trade 1 was cancelled and Trade 2 was booked to the client's account.

Thomas did not inform the client of these material discrepancies, as he ought to have done. Thomas acted in breach of the Code of Conduct for Persons Licensed by or Registered with the SFC.

The SFC also found that, in pushing up the prices, Thomas had recklessly created a false and misleading appearance as to the price of the options. Rule 517 and Rule 519 of the Rules of the Hong Kong Futures Exchange forbid manipulative orders by Exchange Participants. Thomas' orders were manipulative and out of range with the market price, and might have misled other market participants who might rely on the transaction price as their parameter for trading.

Further, Thomas was found to have breached the Code of Conduct and CLSA Futures' internal control policy by failing to record the order for the client and to time stamp the dealing ticket at the time of receipt and execution of the order. This failure obscured the proper audit trail of the client's order. Lastly, Thomas failed to input the client's order promptly into the trading system upon receipt of the order.

The SFC concludes that Thomas has been guilty of misconduct and that his fitness and properness has been called into question.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Brokers must report the status of all orders, including errors in execution, to their clients, so that their clients' interests are properly safeguarded. Failure to do so misleads the clients and the SFC won't tolerate this. It prejudices the interests of both the clients and the firms. If this case were to be dealt with under the Securities and Futures Ordinance, we would have considered imposing a fine and other new sanctions."

Thomas is a licensed representative under the Securities and Futures Ordinance, accredited to CLSA Futures Ltd and CLSA Ltd. He held the position of Head of Futures & Options of CLSA Futures Ltd at the material time.

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