

## SFC reprimands and fines Merrill Lynch HK\$3.5 million for regulatory breaches

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The Securities and Futures Commission (SFC) has reprimanded Merrill Lynch (Asia Pacific) Ltd (Merrill Lynch) and fined it HK\$3.5 million for failing to take adequate steps to properly handle the complaints of 11 clients in 2008 before rejecting their complaints in breach of the Code of Conduct (Notes 1, 2 and 3).

The clients were the subject of a fraud perpetrated by Ms Joyce Hsu Ming Mei, a former licensed representative of Merrill Lynch (Note 4). They complained to Merrill Lynch that Hsu:

- misrepresented certain investment products to them as principal guaranteed when they were not;
- conducted unauthorized transactions in their accounts;
- conducted unauthorized loan drawdowns in their accounts;
- conducted unauthorized fund transfers in their accounts; and
- provided false account statements.

Hsu was subsequently convicted of 20 counts of theft and other dishonesty offences (Note 5).

While Merrill Lynch made inquiries into each complaint, they failed to fully investigate all the relevant circumstances leading to some complaints being incorrectly rejected.

The principal amount invested by the 11 clients in the disputed investment products is about US\$7,228,000 (HK\$56,380,000). Hsu also handled an additional 37 client accounts.

Merrill Lynch has agreed with the SFC that an independent law firm and auditor will conduct a review of all client accounts handled by Hsu and to assess the amount of loss (if any) in each account arising as a result of Hsu's misconduct. Merrill Lynch has also agreed to fully compensate any client whose account was handled by Hsu and who has suffered loss as a result of any misconduct by Hsu less any compensation that may have been paid already.

The SFC notes that Merrill Lynch has already compensated a total of nine of the 11 clients who complained to the SFC and has made significant efforts to resolve the complaints of the remaining two complainants. The SFC further acknowledges Merrill Lynch's full co-operation to resolve the SFC's concerns and notes that it has strengthened its internal control systems on complaints handling.

End

Notes:

1. Merrill Lynch is a licensed corporation under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities), Type 4 (advising on securities), Type 6 (advising on corporate finance) and Type 7 (providing Automated Trading Services) regulated activities.
2. General Principle 2 of the Code of Conduct for Persons Licensed by or Registered with the SFC (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.
3. Paragraph 12.3 of the Code of Conduct requires a licensed person to handle complaints relating to its business in a timely and appropriate manner and to take steps to investigate and respond promptly to complaints.
4. Hsu was licensed under the SFO to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and accredited to Merrill Lynch from 2007 to 2008. Her licence was revoked in April 2008. Prior to this, Hsu was employed by Merrill Lynch Pierce Fenner and Smith Inc from 2003 to 2007 (MLPFS). Both MLPFS and Merrill Lynch are group companies of Merrill Lynch Co, Inc.
5. Hsu was prosecuted and convicted of 20 counts of theft and 12 counts of access to computer with dishonest intent and sentenced to 42 months imprisonment in February 2011.
6. Merrill Lynch has been previously disciplined by the SFC. For further details, please see SFC's press releases dated [31 May 2010](#) and [12 May 2011](#).

