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SFC suspends Tai Nga Chun for operating secret account

13 Jul 2015

The Securities and Futures Commission (SFC) has suspended Ms Tai Nga Chun for eight months from 10 July 2015 to 9 March 2016 (Note 1).

The disciplinary action follows an SFC investigation which found that from January to June 2013, Tai operated a secret account and conducted 85 personal trading activities through the account, in breach of her employer's internal control policies (Note 2).

The SFC considers Tai's conduct was dishonest and made it impossible for her employer to identify and monitor her trading activities, without which licensed corporations would not be able to detect potential malpractices arising from staff trading.

The SFC has looked into the trading in Tai's account and found no sign of any other misconduct.

The SFC reduced the period of suspension taking into account that Tai has expressed remorse for her misconduct.

Licensed persons are required to follow the employee dealing procedures implemented by their employers in accordance with the Code of Conduct, because such controls are not purely internal to their employers but constitute an integral part of the regulatory system, as they seek to ensure integrity in the manner in which employees conduct personal trading (Note 3).

End

Notes:

1. Tai is licensed as a representative under the Securities and Futures Ordinance to carry on Type 6 (advising on corporate finance) regulated activities and was accredited to Kingston Corporate Finance Limited from 13 May 2013 to 10 July 2013.
2. At the material time, Tai was employed by Kingston Corporate Finance Limited and she breached Kingston's internal control policies with regard to employee dealings.
3. See paragraph 12.2 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

[A copy of the Statement of Disciplinary Action in relation is available on the SFC website](#)

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戴雅真操作秘密帳戶遭證監會暫時吊銷牌照

2015年7月13日

證券及期貨事務監察委員會（證監會）暫時吊銷戴雅真（女）的牌照，為期八個月，由2015年7月10日起至2016年3月9日止（註1）。

證監會經調查後採取上述紀律處分行動。調查發現，在2013年1月至6月期間，戴操作一個秘密帳戶及透過該帳戶進行85次個人買賣活動，違反了其僱主的內部監控政策（註2）。

證監會認為戴的行為有欠誠實，使其僱主無法識別及監察其買賣活動，而若缺乏了這種監察，持牌法團將無法偵測到因員工買賣活動所引起的潛在不當行為。

證監會已就戴的帳戶內的交易進行調查，沒有發現任何其他失當行為的跡象。

鑑於戴對其失當行為表示後悔，證監會縮短了暫時吊銷牌照的期間。

持牌人須遵守其僱主根據《操守準則》而實施的僱員交易程序，因為這些為確保僱員以具誠信的方式進行個人買賣活動而設的監控措施，不僅是僱主的內部措施，亦構成監管制度的重要組成部分（註3）。

完

備註：

1. 戴根據《證券及期貨條例》獲發牌以代表身分進行第6類（就機構融資提供意見）受規管活動，並於2013年5月13日至2013年7月10日期間隸屬金利豐財務顧問有限公司。
2. 在關鍵時間，戴受僱於金利豐財務顧問有限公司及違反了金利豐有關僱員交易的內部監控政策。
3. 請參閱《證券及期貨事務監察委員會持牌人或註冊人操守準則》第12.2段。

[有關的紀律處分行動聲明載於證監會網站](#)

最後更新日期：2015年7月13日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended Ms Tai Nga Chun for eight months, pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken because Tai has failed to disclose to her employer the existence of one of her personal securities trading accounts and the securities transactions conducted in that account, in breach of her employer's internal control policies.

Summary of facts

3. Tai was an account executive of Kingston Corporate Finance Limited (**Kingston**) from 2 January 2013 to 10 July 2013.
4. Investigation into Tai's conduct stemmed from a report by Kingston in July 2013 that Tai was dismissed by Kingston due to breach of internal control policies – Tai failed to disclose her securities trading account to Kingston and she conducted personal trading through such account without Kingston's prior approval.
5. According to Kingston's Internal Control Procedures Manual, employees are required to obtain prior written approval for personal account dealings in listed securities from the compliance officer. Kingston also requires that employees declare, upon joining Kingston, all their securities accounts maintained other than with Kingston Securities Limited and Kingston Futures Limited.
6. **Tai maintained a securities trading account with I-Access Investors Limited (I-Access) and HSBC since October 2010 and March 2007 respectively. From January to June 2013:**
 - (a) **Tai conducted 85 securities transactions in her account with I-Access (I-Access Account).**
 - (b) **Tai bought shares in a listed company in her account with HSBC (HSBC Account) on 28 March 2013, and sold them all on 13 June 2013.**
7. By an account declaration form (金融帳戶申報表) dated 3 January 2013 (i.e. the day after Tai joined Kingston), **Tai declared that she maintained the HSBC Account only.** Further, she signed a letter authorising HSBC to deliver copies of the trade confirmations and statements relating to the HSBC Account to

Kingston. However, Tai did not disclose that she also maintained the I-Access Account¹.

8. At the end of March / in early April 2013, Kingston received a trade confirmation from HSBC which confirmed that Tai had bought shares of a listed company on 28 March 2013. Tai did not apply for prior approval to buy such shares on or before 28 March 2013, and Kingston only discovered the purchase upon receiving the trade confirmation from HSBC.
9. Kingston's compliance officer reminded Tai that she had to seek approval from Kingston before conducting any personal trades. Subsequently, Tai sought Kingston's approval to sell the shares in the HSBC Account in June 2013. However, although Tai had used the I-Access Account to conduct personal trading from January to June 2013, she did not disclose the existence of the I-Access Account or the transactions conducted therein to Kingston until after she closed the I-Access Account in July.
10. Tai told us that she did not know that she had to disclose all of her securities trading accounts to Kingston. Tai also claimed that she did not disclose the I-Access Account to Kingston after the compliance officer reminded her the employee dealing procedures at the end of March / early April 2013 because she intended to sell all stocks in the I-Access Account and to close the account before making a report to Kingston.
11. **The SFC has also looked into the trading in the I-Access Account but found no sign of any other misconduct.**

Breaches and reasons for action

Breach of General Principle 1, Code of Conduct²

12. General Principle 1 of the Code of Conduct requires all licensed persons to act honestly, fairly, and in the best interests of their clients and the integrity of the market when conducting their business activities.
13. In so far as personal trading is concerned, employees of licensed corporations (including licensed representatives) should follow the employee dealing procedures of their employers because a failure to honour those controls will not only breach the internal policies of their employers but also prevent them from monitoring personal trading of their employees, which is important for the prevention and identification of potential market misconduct.
14. Kingston's controls with regard to employee dealings are not purely internal to Kingston but constitute an integral part of the regulatory system, as they seek to ensure integrity in the manner in which employees conduct personal

¹ As of 3 January 2013, there were no holdings in the HSBC Account but Tai held listed securities and Government ibonds in the I-Access Account. Both I-Access and HSBC are not related to Kingston or its affiliated companies.

² Code of Conduct for Persons Licensed by or Registered with the SFC

trading. Kingston would not be able to comply with the regulatory requirements of paragraph 12.2 of the Code of Conduct without the cooperation and assistance from their employees³.

15. Although Tai informed us that she did not know that she had to disclose all of her securities transactions to Kingston, Kingston's account declaration form made it clear that disclosure of all securities accounts is required. Further, Tai's selective disclosure of the inactive HSBC Account to Kingston but not the I-Access Account which she used actively attracts the inference that she intended to hide her personal trading from Kingston and evaded Kingston's monitoring over her personal trading activities.
16. The evidence also reveals that Tai had conducted over 50 securities transactions in the I-Access Account without obtaining Kingston's prior approval, after she had been specifically requested by Kingston's compliance officer to disclose her personal trading activities and obtain Kingston's prior approval before conducting any personal trades.
17. The SFC finds that Tai's conduct is dishonest and in breach of General Principle 1 of the Code of Conduct.

Conclusion

18. In deciding the disciplinary sanction, the SFC has taken into account all relevant circumstances, including Tai's conduct is dishonest and could jeopardize the best interests of his clients, his employer and market integrity, but that she eventually reported the I-Access Account to Kingston voluntarily and is remorseful for her conduct.

³ Paragraph 12.2 of the Code of Conduct requires licensed corporation to implement procedures and policies on employee trading and to actively monitor the trading activities in their employee's accounts and their related accounts.

紀律處分行動聲明

紀律處分行動

1. 證券及期貨事務監察委員會（**證監會**）根據《證券及期貨條例》（**該條例**）第 194 條暫時吊銷戴雅真（**戴**）的牌照，為期八個月。
2. 證監會採取上述紀律處分行動，是因為戴沒有向她的僱主披露她的其中一個個人證券交易帳戶及在該帳戶內進行的證券交易，違反了其僱主的內部監控政策。

事實摘要

3. 戴在 2013 年 1 月 2 日至 2013 年 7 月 10 日期間擔任金利豐財務顧問有限公司（**金利豐**）的客戶主任。
4. 金利豐於 2013 年 7 月向證監會作出匯報，指戴因違反了內部監控政策（即戴沒有向金利豐披露她的證券交易帳戶，並在未經金利豐事先批准的情況下透過該帳戶進行個人買賣活動）而遭金利豐解僱，證監會遂對戴的行為展開調查。
5. 根據金利豐的內部監控程序手冊，僱員須取得合規主任的事先書面批准，方可透過個人帳戶買賣上市證券。金利豐亦規定僱員在加入金利豐時須申報其在金利豐證券有限公司及金利豐期貨有限公司以外的公司開立的全部證券帳戶。
6. 戴分別自 2010 年 10 月及 2007 年 3 月起在一通投資者有限公司（**一通**）及滙豐持有證券交易帳戶。在 2013 年 1 月至 6 月期間：
 - (a) 戴利用她在一通的帳戶（**一通帳戶**）進行了 85 次證券交易。
 - (b) 戴於 2013 年 3 月 28 日利用她在滙豐的帳戶（**滙豐帳戶**）買入一家上市公司的股份，並於 2013 年 6 月 13 日賣出全部該等股份。
7. 戴在一份日期為 2013 年 1 月 3 日（即戴加入金利豐之後一日）的金融帳戶申報表中申報她只持有滙豐帳戶。此外，她曾簽署一封函件，授權滙豐將與滙豐帳戶有關的交易確認書及結單送往金利豐。然而，戴並無披露她亦持有一通帳戶¹。
8. 於 2013 年 3 月底／4 月初，金利豐收到滙豐發出的交易確認書，確認戴曾於 2013 年 3 月 28 日買入一家上市公司的股份。戴並無於 2013 年 3 月 28 日或之前事先申請批准買入該等股份，而金利豐是在收到滙豐發出的交易確認書後才發現該項買入。

¹ 截至 2013 年 1 月 3 日，滙豐帳戶並無任何持倉，但戴在一通帳戶持有上市證券及政府通脹掛鈎債券。一通及滙豐與金利豐或其聯屬公司並無關係。

9. 金利豐的合規主任提醒戴須在進行任何個人交易之前取得金利豐的批准。其後，戴於 2013 年 6 月要求金利豐批准賣出在滙豐帳戶內的股份。然而，儘管戴在 2013 年 1 月至 6 月期間曾利用一通帳戶進行個人買賣活動，但直至她於 7 月取消一通帳戶之後，她才向金利豐披露一通帳戶的存在或利用一通帳戶進行的交易。
10. 戴向我們表示，她並不知道她須向金利豐披露她的全部證券交易帳戶。戴亦聲稱，她並無在合規主任於 2013 年 3 月底／4 月初提醒她有關僱員交易程序之後向金利豐披露一通帳戶，是因為她擬在向金利豐報告之前賣出一通帳戶內的所有股票及取消該帳戶。
11. 證監會亦就一通帳戶內的交易進行調查，沒有發現任何其他失當行為的跡象。

違反規定及採取行動的理由

違反《操守準則》²第 1 項一般原則

12. 《操守準則》第 1 項一般原則規定，所有持牌人在經營其業務時，應以誠實、公平和維護客戶最佳利益的態度行事及確保市場廉潔穩健。
13. 就個人買賣活動而言，持牌法團的僱員（包括持牌代表）應遵守其僱主的僱員交易程序，原因是未能遵守該等監控措施不僅會違反其僱主的內部政策，而且亦會妨礙他們監察其僱員的個人買賣活動，而監察其僱員的個人買賣活動是防止及識別潛在市場失當行為過程中的重要一環。
14. 金利豐就僱員交易制訂的監控措施是為確保僱員以具誠信的方式進行個人買賣活動而設，不僅是金利豐的內部措施，亦構成監管制度的重要組成部分。沒有僱員的合作及協助，金利豐將無法符合《操守準則》第 12.2 段的監管規定³。
15. 儘管戴向我們表示，她並不知道自己須向金利豐披露其全部證券交易，但金利豐的金融帳戶申報表內已清楚列明須披露所有證券帳戶。此外，戴選擇性地向金利豐披露不活躍的滙豐帳戶，但卻沒有披露她經常使用的一通帳戶，令人推斷她有意向金利豐隱瞞她的個人買賣活動及迴避金利豐對其個人買賣活動的監察。
16. 證據亦顯示，在金利豐的合規主任特意要求戴披露她的個人買賣活動及在進行任何個人交易之前取得金利豐的事先批准之後，戴曾在未取得金利豐的事先批准的情況下利用一通帳戶進行了超過 50 次證券交易。
17. 證監會裁斷，戴的行為有欠誠實，違反了《操守準則》第 1 項一般原則。

² 《證監會持牌人或註冊人操守準則》

³ 《操守準則》第 12.2 段規定持牌法團須執行有關僱員交易的程序及政策，並須積極監察僱員帳戶及其有關帳戶的交易活動。

結論

18. 證監會在釐定上述紀律處分時，已考慮到所有相關情況，包括戴的行為有欠誠實，可能損害其客戶及僱主的最佳利益，有損市場的廉潔穩健，不過她最終自願向金利豐報告一通帳戶的存在及對她的行為表示後悔。