STATEMENT OF DISCIPLINARY ACTIONS

The Disciplinary Actions

1. The Securities and Futures Commission (**SFC**) has reprimanded and fined Grand International Futures Co., Limited (**GIFCL**)[1] $8,000,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).

2. The SFC has also suspended the licence of GIFCL's responsible officer, Mr Liang Benyou (**Liang**)[2], for eight months from 28 December 2021 to 27 August 2022.

3. The disciplinary actions are taken because GIFCL and/or Liang failed to:

   (a) perform adequate due diligence on the customer supplied systems (**CSSs**)[3] used by clients for placing orders, and assess and manage the associated money laundering and terrorist financing (**ML/TF**) and other risks;

   (b) conduct proper enquiries on client deposits which were incommensurate with the clients' financial profiles declared in their account opening documents;

   (c) establish effective ongoing monitoring system to detect and assess suspicious trading pattern in client accounts; and

   (d) discharge his duties as a responsible officer and a member of GIFCL's senior management.

Summary of Facts

A. Background

4. The SFC received a complaint against various licensed corporations (**LCs**), including GIFCL, for allowing clients to place orders to their broker supplied systems (**BSS**)[4] through a software called Xinguanjia (**XGJ**). XGJ was developed and/or provided by Hengxin Software Limited.

5. The complainant alleged that XGJ permitted the LCs' clients to create sub-accounts under their accounts maintained with the LCs, and the clients had solicited investors in Mainland China to trade through the sub-accounts via XGJ without having to open separate securities accounts with the LCs in Hong Kong.

---

[1] GIFCL is licensed to carry on Type 2 (dealing in futures contracts) and Type 5 (advising on futures contracts) regulated activities under the SFO.

[2] Liang has been accredited to GIFCL and approved to act as its responsible officer for Type 2 (dealing in futures contracts) and Type 5 (advising on futures contracts) regulated activities since 3 October 2017. Liang has been GIFCL's Manager-In-Charge of the (i) Overall Management Oversight, Operational Control and Review, Compliance and Information Technology functions since 1 September 2017, and (ii) Key Business Line function since 4 April 2018.

[3] CSSs are trading software developed and/or designated by the clients that enable them to conduct electronic trading through the Internet, mobile phones and other electronic channels.

[4] BSSs are trading facilities developed by exchange participants or vendors that enable the exchange participants to provide electronic trading services to investors through the Internet, mobile phones, and other electronic channels.

6. Between October 2017 and October 2018 (**Relevant Period**), GIFCL has permitted 103 clients to use their designated CSSs (including XGJ) for placing orders[5]. From December 2017 to October 2018, the number of futures contracts transacted by GIFCL clients through orders placed via CSSs accounted for 93.92% to 99.25% of its monthly trading volume.

B. Failure to perform adequate due diligence on the CSSs and assess and manage the associated ML/TF and other risks

7. Before allowing its clients to connect their CSSs to its BSS, GIFCL would require its clients to: (a) complete an application form and risk disclosure statement; and (b) apply for authorisation from the supplier of its BSS (**BSS Supplier**).

8. GIFCL did not perform any due diligence or testing on the CSSs used by its clients.

9. While GIFCL claimed that it relied on the BSS Supplier to conduct due diligence on the CSSs, the BSS Supplier stated that GIFCL had never instructed it to, and it did not, conduct any due diligence or test on the CSSs to examine their design and functions.

10. Without thorough knowledge of the features and functions of the CSSs, GIFCL was not in a position to properly assess the ML/TF and other risks associated with the use of the CSSs and implement appropriate measures and controls to mitigate and manage such risks.

11. In the absence of proper control over the use of CSSs by its clients, GIFCL has exposed itself to the risks of improper conduct such as unlicensed activities, money laundering, nominee account arrangement and unauthorized access to client accounts.

C. Failure to conduct proper enquiries on client deposits which were incommensurate with the clients' financial profiles

12. The SFC's review of the fund movements in sample client accounts showed that the amounts of deposits made into the accounts of four clients (**Four Clients**) were incommensurate with their financial profiles declared in their account opening documents, which were unusual and/or suspicious (**Anomalies**).

13. GIFCL claimed that it was aware of the Anomalies during the Relevant Period. As part of its monthly monitoring measure, it had contacted the top clients (including the Four Clients) via WeChat to understand the client situation (**Monthly Monitoring**).

14. However, the Monthly Monitoring was inadequate:

    (a) GIFCL did not document the policies and procedures governing the Monthly Monitoring.

[5] The CSSs were connected to GIFCL's BSS through application programming interface (a set of functions that allows applications to access data and interact with external software components or operating systems).

(b) The scope of the Monthly Monitoring was limited to top 10 clients with the highest number of transactions and top 10 clients with the highest amount of deposits.

(c) GIFCL has not maintained any record of the Monthly Monitoring, including its enquiries allegedly made with the Four Clients and their responses to the enquiries. In the absence of any record, GIFCL is unable to demonstrate that it has made proper enquiries with the Four Clients and satisfactorily addressed the concerns associated with the Anomalies.

D. Failure to maintain effective ongoing monitoring system to detect and assess suspicious trading patterns in client accounts

15. The SFC's review of the transactions in sample client accounts showed that there were 100,989 self-matched trades (i.e. the client's order matched with his/her own order in the opposite direction) (**Matched Trades**) in nine client accounts during the Relevant Period.

16. GIFCL was not aware of the Matched Trades at the material time.

17. During the Relevant Period, GIFCL relied on its dealing department to monitor client trading activities. However, it did not provide its staff with any guidelines or procedures for such monitoring.

18. GIFCL's failure to detect the Matched Trades demonstrates that its systems and controls for monitoring and detecting suspicious transactions were neither adequate nor effective.

The SFC's findings

19. GIFCL's failures set out above constitute a breach of:

    (a) General Principle (**GP**) 2 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**), which requires an LC to act with due skill, care and diligence, in the best interests of its clients and integrity of the market in conducting its business activities.

    (b) GP 3 and paragraph 4.3 of the Code of Conduct, which provide that an LC should have and employ effectively the resources and procedures which are needed for the proper performance of its business activities and have internal control procedures and operational capabilities which can be reasonably expected to protect its operations and clients from financial loss arising from theft, fraud, and other dishonest acts, professional misconduct or omissions.

    (c) Paragraph 5.1 of the Code of Conduct which requires an LC to take all reasonable steps to establish the true and full identity of each of its clients, and of each client's financial situation, investment experience, and investment objectives.

(d) Section 23 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AMLO**) and paragraph 2.1 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (April 2015 and March 2018 editions) (**AML Guideline**), which require an LC to mitigate the risks of ML/TF and prevent contravention of any client due diligence and record keeping requirements under the AMLO. To ensure compliance with this requirement, the LC should:

(i) establish and implement adequate and appropriate internal anti-money laundering (**AML**) and counter-financing of terrorism (**CFT**) policies, procedures and controls pursuant to paragraph 2.2 of the AML Guideline; and

(ii) assess the risks of any new products and services (especially those that may lead to misuse of technological developments or facilitate anonymity in ML/TF schemes) before they are introduced and ensure appropriate additional measures and controls are implemented to mitigate and manage the associated ML/TF risks pursuant to paragraph 2.3 of the AML Guideline.

(e) Section 5(1)(a) of Schedule 2 to the AMLO and paragraphs 4.7.12 and 5.1(a) of the AML Guideline, which require an LC to review from time to time client information to ensure that they are up-to-date and relevant when a significant transaction is to take place or a material change occurs in the way the client's account is operated.

(f) Section 5(1)(b) of Schedule 2 to the AMLO and paragraph 5.1(b) of the AML Guideline, which require an LC to continuously monitor its business relationship with the clients by monitoring their activities to ensure that they are consistent with its knowledge of the clients and the clients' nature of business, risk profile and source of funds.

(g) Section 5(1)(c) of Schedule 2 to the AMLO and paragraphs 5.1(c), 5.10 and 5.11 of the AML Guideline, which require an LC to identify transactions that are complex, large or unusual or patterns of transactions that have no apparent economic or lawful purpose, make relevant enquiries to examine the background and purpose of the transactions, document the enquiries made (and their results), and report the findings to the Joint Financial Intelligence Unit where there is any suspicion of ML/TF. Pursuant to paragraph 7.11 of the AML Guideline, where a transaction is inconsistent in amount, origin, destination, or type with a client's known, legitimate business or personal activities, the transaction should be considered as unusual and the LC should be put on alert[6].

20. During the Relevant Period, Liang was responsible for overseeing the entire business operation of GIFCL. He was also responsible for approving the use of CSSs by GIFCL's clients and ongoing monitoring of client trading activities conducted through CSSs.

[6] Examples of situations that might give rise to suspicion are given in paragraphs 7.14 and 7.39 of the AML Guideline, such as: (a) transactions or instructions which have no apparent legitimate purpose and/or appear not to have a commercial rationale; (b) buying and selling of securities/futures with no discernible purpose or where the nature, size or frequency of the transactions appears unusual; and (c) the entry of matching buys and sells in particular securities or futures or leveraged foreign exchange contracts (wash trading), creating the illusion of trading. Such wash trading does not result in a bona fide market position, and might provide "cover" for a money launderer.

21. GIFCL’s breaches were attributable to Liang’s failure to discharge his duties as a responsible officer and a member of GIFCL’s senior management, including his failure to:

    (a) ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by the firm, in breach of GP 9 of the Code of Conduct; and

    (b) properly manage the risks associated with GIFCL’s business, in breach of paragraph 14.1 of the Code of Conduct.

Conclusion

22. Having considered all relevant circumstances, the SFC is of the opinion that GIFCL and Liang are guilty of misconduct and their fitness and properness to carry on regulated activities have been called into question.

23. In deciding the disciplinary sanctions set out in paragraphs 1 and 2 above, the SFC has taken into account all of the circumstances, including:

    (a) GIFCL’s failures to diligently monitor its clients’ activities and put in place adequate and effective AML/CFT systems and controls are serious as they could undermine public confidence in, and damage the integrity of, the market;

    (b) a strong deterrent message needs to be sent to the market that such failures are not acceptable;

    (c) GIFCL and Liang cooperated with the SFC in resolving the SFC’s concerns; and

    (d) GIFCL and Liang have otherwise clean disciplinary records with the SFC.