

1) SFC Takes Action Against Leung Wing Fai 2) SFC Suspends Ho Chu Ming George 3) SFC Suspends Heng Hian Mok

28 Jan 2003

1) The SFC announces today the conclusion of its disciplinary inquiry against Mr Leung Wing Fai.

The SFC found that, during the period between October 1998 and May 1999, Leung provided names of some 30 of his clients, who had given Leung the discretion to conduct trading on their behalf, to the placing agent as placees in 32 warrants issues which were used by the issuer of those warrants to ostensibly satisfy the Placing Guidelines of the Stock Exchange's Main Board Listing Rules in force at the time, which required that for a warrant to be listed, it had to have an adequate spread of holders, specified as, at least 100 holders among other things.

The SFC found that Leung knew that the placees he provided were needed for this adequate spread rule. However, the SFC found that there might not be sufficient genuine market for the warrants because all the warrants subscribed for by the placees introduced by Leung were, in almost all of the cases, sold back to the issuer through the placing agent by Leung on the next business day after the warrants were issued. The SFC found that as a result of Leung's action in providing these placees for the placements, the market and the investing public might have been led to believe that each and every one of the 32 issues of warrants launched was a success because there appeared to be an adequate level of demand for and activity in those warrants at the time of listing when in fact there might not have been.

Leung acknowledged that he was negligent in not having realised that, by providing the placees to subscribe for the warrants and by selling back the warrants in the way he did could deceive the market as stated in the public announcement of the SFC (note 1). Leung also acknowledged that he now realised that the placing arrangement that he had with the placing agent might mislead the market and the investing public into believing that there was a higher demand for, and activities in, those warrants when this was not the case.

The SFC also found that Leung breached paragraph 7 of the Placing Guidelines which prohibited, among other things, staff of placing agents from allocating any warrants to their close relatives on whose behalf they had a discretion to conduct transactions. The SFC found that Leung had allocated the warrants to his wife's and sister's accounts for which he was given a discretion to conduct transactions, and as such he breached paragraph 7.

As a result of the above findings, Leung has agreed to accept a public reprimand for his conduct and to voluntarily surrender his registrations as a dealing director/dealer under the Securities Ordinance (SO) and the Commodities Trading Ordinance (CTO) and has undertaken not to re-apply for registration as a dealing director/dealer/responsible director or responsible officer under the SO, CTO, Leveraged Foreign Exchange Trading Ordinance or any successor legislation for a period of eight months. In reaching this agreement the SFC had taken into account the co-operation of Leung and that HKEx changed the listing requirements for derivative warrants on 10 December 2001 and issuers are no longer required to place an issue of warrants to a minimum number of independent placees.

Alan Linning, SFC Executive Director of Enforcement, said: "Even though they have been repealed, the minimum independent public float requirements for the listing of warrants were important when they were in force. Artificial schemes which created the appearance that there was a minimum number of independent people holding the warrants at the time of listing, when this was not the case, could have misled investors as to the real state of movement for the warrants and the viability of the post-listing market and were improper. We will take disciplinary action against those involved in such schemes."

Note :

1. The SFC's 7 June 2001 press release stated the SFC's concern that the pre-arrangement of issuers for brokers, placing agents and investors to take up the warrants on the understanding that the issuers would repurchase the warrants was unacceptable because this might deceive the market by giving a false and misleading appearance of the market for the warrants. The SFC warned it might

take disciplinary action against any person involved in such activities.

2) The SFC announces today that it has suspended the registration of Mr Ho Chu Ming George.

The SFC found that, during the period between October 1998 and May 1999, Ho provided names of some 30 of his and his company's clients, apparently without the relevant clients' prior knowledge and authority, to the placing agent as placees in 33 warrants issues which were used by the issuer of those warrants to ostensibly satisfy the Placing Guidelines of the Stock Exchange's Main Board Listing Rules in force at the time. The relevant Placing Guidelines required that for a warrant to be listed, it had to have an adequate spread of holders, specified as, at least 100 holders among other things.

The SFC found that Ho knew that the placees he provided were needed for this adequate spread rule. However, the SFC found that there was no genuine market for the warrants because all the warrants subscribed for by the placees introduced by Ho were, almost in all the cases, sold back to the issuer through the placing agent on the next business day after the warrants were issued and the decision to subscribe the warrants was discretionarily made by Ho without the placees' prior knowledge. The SFC found that as a result of Ho's action in providing sham placees for the placements, the market and the investing public was led to believe that each and every one of the 33 issues of warrants launched was a success because there appeared to be an adequate level of demand for and activity in those warrants at the time of listing when in fact there was not.

Ho admitted that, by providing the placees to subscribe for the warrants and by selling back the warrants in the way he did, was improper. Ho also apologized for, through the placing arrangement that he had with the placing agent, having misled the market and the investing public into believing that there was a higher demand for and activities in those warrants when this was not the case.

The SFC also found that Ho breached paragraph 7 of the Placing Guidelines which prohibited, among other things, staff of placing agents from allocating any warrants to their close relatives on whose behalf they had a discretion to conduct transactions. Ho admitted that he had allocated the warrants to the accounts of his close relatives for which he was given discretion to conduct transactions, and as such he breached paragraph 7.

As a result of the above findings, Ho has agreed to accept, for his conduct, a suspension of his registration as a dealer representative under the Securities Ordinance and as a commodity dealer's representative under the Commodity Trading Ordinance for a period of three months, effective from 18 September 2002. In reaching this agreement the SFC had taken into account that Ho was co-operative and remorseful during the inquiry and that HKEx changed the listing requirements for derivative warrants on 10 December 2001 and issuers are no longer required to place an issue of warrants to a minimum number of independent placees.

Alan Linning, SFC Executive Director of Enforcement, said: "Even though they have been repealed, the minimum independent public float requirements for the listing of warrants were important when they were in force. Artificial schemes which created the appearance that there was a minimum number of independent people holding the warrants at the time of listing, when this was not the case, could have misled investors as to the real state of movement for the warrants and the viability of the post-listing market and were improper. We will take disciplinary action against those involved in such schemes."

3) The SFC announces today that it has suspended the registration of Mr Heng Hian Mok.

The SFC found that, during the period between October 1998 and May 1999, Heng provided names of some 30 of his and his company's clients, in all but the first few instances, without the relevant clients' prior knowledge and authority, to the placing agent as placees in 33 warrants issues which were used by the issuer of those warrants to ostensibly satisfy the Placing Guidelines of the Stock Exchange's Main Board Listing Rules in force at the time. The Guidelines, at that time, required that, for a warrant to be listed, it had to have an adequate spread of holders, specified as, at least 100 holders among other things.

The SFC found that Heng knew that the placees he provided were needed for this adequate spread rule. However, the SFC found that there was no genuine market for the warrants because all the warrants subscribed for by the placees introduced by Heng were, almost in all the cases, sold back to the issuer through the placing agent on the next business day after the warrants were issued and the decision to subscribe the warrants was discretionarily made by Heng without the placees' prior knowledge. The SFC found that as a result of Heng's action in providing sham placees for the placements, the market and the investing public was led to believe that each and every one of the 33 issues of warrants launched was a success because there appeared to be an adequate level of demand for and activity in those warrants at the time of listing when in fact there was not.

Heng acknowledged that, by providing the placees to subscribe for the warrants and by selling back the warrants in the way he did, was improper. Heng also acknowledged that, through the placing arrangement that he had with the placing agent, had misled the market and the investing public into believing that there was a higher demand for and activities in those warrants when this was not the case.

The SFC also found that Heng breached paragraph 7 of the Placing Guidelines which prohibited, among other things, staff of placing agents from allocating any warrants to their close relatives on whose behalf they had a discretion to conduct transactions. Heng had allocated the warrants to the accounts of his wife and relatives which he had in effect managed discretionarily, and he therefore breached paragraph 7.

On 26 November 2002, Heng pleaded guilty before Ms Polly Lo at Western Magistracy to 24 summonses of short selling securities in contravention of Section 80 of the Securities Ordinance. He was fined \$48,000 and ordered to pay investigation costs of \$8,335 to the SFC.

As a result of the above findings and his conviction, Heng has accepted, for his conduct, a suspension of his registration as a dealing director and as a financier's representative under the Securities Ordinance for a total period of four months, being three months for the providing sham placees for warrants issues and one month for the short selling conviction. The suspension takes effect from 1 September 2002.

In reaching this agreement the SFC had taken into account that Heng was co-operative during the inquiry and that HKEx changed the listing requirements for derivative warrants on 10 December 2001 and issuers are no longer required to place an issue of warrants to a minimum number of independent placees.

Alan Linning, SFC Executive Director of Enforcement, said: "Even though they have been repealed, the minimum independent public float requirements for the listing of warrants were important when they were in force. Artificial schemes which created the appearance that there was a minimum number of independent people holding the warrants at the time of listing, when this was not the case, could have misled investors as to the real state of movement for the warrants and the viability of the post-listing market and were improper. We will take disciplinary action against those involved in such schemes."

Ends

Page last updated : 1 Aug 2012

1) 證監會對梁永徽採取行動 2) 證監會暫時吊銷何柱明的註冊 3) 證監會暫時吊銷王賢牧的註冊

2003年1月28日

1) 證監會今天公布，本會已完成對梁永徽的紀律查訊。

證監會發現，在1998年10月至1999年5月期間，梁氏將約30名委託其進行交易的客戶的姓名提供予32隻權證的配售代理人，從而將該批客戶當作該等權證的承配人，而有關權證的發行人則利用該等姓名來符合於當時有效的香港聯合交易所主板《上市規則》配售指引。有關的配售指引訂有多項規定，當中包括規定一隻權證在上市時，必須分配給充足數目的持有人，其中指明最少要有100名持有人。

證監會發現梁氏是知道他所提供的承配人是為了符合這項分配給充足數目人士的規定。然而，證監會發現有關權證事實上缺乏真正的市場，因為所有由梁氏介紹的承配人所認購的權證，幾乎在每一個情況下都是在該權證上市後翌日透過配售代理人售回其發行人。證監會發現由於梁氏提供這些承配人，可能導致市場及投資大眾以為上述發行的32隻權證，每一隻都能夠成功推出，因為該等權證在上市時看來都具有充分的需求及達到充足的交投活動水平。然而，事實可能並非如此。

梁氏承認他犯有疏忽，在透過提供有關的承配人以認購有關的權證及以上述方式將權證售回發行人時，未有注意到此舉可能會正如證監會的公告（註 1）所指欺騙了市場人士。梁氏亦承認他現在瞭解到透過上述他與配售代理人之間的配售安排，可能誤導了市場及投資大眾，使他們以為該等權證有較高的需求及交投活動，而事實上卻並非如此。

證監會亦發現梁氏違反該配售指引第7段。該段涉及多項規定，其中包括配售代理人的職員不得將任何權證分配給其可酌情決定進行交易的近親帳戶。證監會發現梁氏將有關的權證分配給其妻子及姊妹的帳戶，而梁氏已獲授權可酌情決定進行交易，因此違反了該指引第7段的規定。

基於上述的調查結果，梁氏同意就其操守接受公開譴責，自願將其根據《證券條例》及《商品交易條例》取得的交易董事／交易商的註冊退回，並承諾不會在8個月內重新申請作為《證券條例》、《商品交易條例》、《槓桿式外匯買賣條例》或其他後續法例之下的交易董事／交易商／責任董事／負責人員。在達成這個協議時，證監會已考慮到梁氏在查訊期間表現合作，以及香港交易所已在2001年12月10日修改有關衍生權證的規定，不再要求上市權證在發行時必須分配給某個最低限度數目的獨立承配人。

證監會法規執行部執行董事李顯能表示：“雖然權證上市時必須具有最低限度數目的獨立公眾持有人的規定已經廢除，但當其在過往有效時仍屬重要的規定。任何人為的計劃如營造出一個現象，使市場以為有關權證在上市時已有最低限度數目的持有人，但事實並非如此的話，便可能會誤導投資者，使其未能掌握有關權證真正的市場走勢和狀態及其上市後的市場反應，這是不適當的做法。我們將會採取行動紀律處分任何涉及該等計劃的人士。”

備註：

1. 證監會在2001年6月7日發出的新聞稿表示，證監會關注到若干衍生權證的發行人可能安排經紀、配售代理人及投資者認購其所配售的衍生權證，但該等人士是基於有關發行人將會回購所配售的衍生權證而作出有關的認購。這些預先協定的安排是不可接受的，因為這將會營造出對有關權證的虛假及誤導的表像，以及警告其可能會對任何涉及該等活動的人士採取紀律處分行動。

2) 證監會今天公布，本會已暫時吊銷何柱明的註冊。

證監會發現，在1998年10月至1999年5月期間，何氏將大約30名屬於其本人或其所屬公司的客戶的姓名，在該批客戶不知情及何氏未有取得該等客戶事先授權的情況下，提供予33隻權證的配售代理人，當作該等權證的承配人，而有關權證的發行人則利用該批客戶的姓名來符合於當時有效的香港聯合交易所主板《上市規則》配售指引。有關的配售指引訂有多項規定，當中包括規定一隻權證在上市時，必須分配給充足數目的持有人，其中指明最少要有100名持有人。

證監會發現何氏是知道他所提供的承配人是為了符合這項分配給充足數目人士的規定。然而，證監會發現有關權證事實上缺乏真正的市場，因為所有由何氏介紹的承配人所認購的權證，幾乎在每一個情況下都是在該權證上市後翌日透過配售代理人售回其發行人。而有關權證的認購決定都是由何氏全權酌情決定，該等承配人對此事先並不知情。證監會發現由於何氏提供這些虛假的承配人，結果誤導市場及投資大眾，以為上述發行的33隻權證，每一隻都能夠成功推出，因為該等權證在上市時看來都有充分的需求及達到充足的交投活動水平。然而，事實並非如此。

何氏承認，提供該等承配人以認購有關的權證及以上述方式將權證售回發行人的行為，實屬不當。何氏對於其透過上述與配售代理人之間的配售安排而誤導市場及投資大眾，使他們以為該等權證有較高的需求及交投活動（而事實上卻並非如此）的行為，亦作出道歉。

證監會亦發現何氏違反該配售指引第7段。該段涉及多項規定，其中包括配售代理人的職員不得將任何權證分配給其可以全權酌情決定進行交易的近親帳戶。何氏承認他將有關的權證分配給其獲給予酌情權進行交易的近親的帳戶，因此違反了該指引第7段的規定。

基於上述的調查結果及何氏上述的操守，何氏同意接納將其根據《證券條例》取得的交易商代表的註冊，以及根據《商品交易條例》取得的商品交易商代表的註冊，由2002年9月18日起，暫時吊銷3個月。在達成這個協議時，證監會已考慮到何氏在查訊期間表現合作及有悔意，以及香港交易所已在2001年12月10日修改有關衍生權證的規定，不再要求上市權證在發行時必須分配給某個最低限度數目的獨立承配人。

證監會法規執行部執行董事李顯能表示：“雖然權證上市時必須具有最低限度數目的獨立公眾持有人的規定已經廢除，但當其在過往有效時仍屬重要的規定。任何人為的計劃如營造出一個現象，使市場以為有關權證在上市時已有最低限度數目的持有人，但事實並非如此的話，便可能會誤導投資者，使他們未能掌握有關權證真正的市場走勢和狀態及其上市後的市場反應，這是不適當的做法。我們將會採取行動紀律處分任何涉及該等計劃的人士。”

3) 證監會今天公布，本會已暫時吊銷王賢牧的註冊。

證監會發現，在1998年10月至1999年5月期間，王氏將大約30名屬於其本人及其所屬公司的客戶的姓名，在該批客戶不知情及王氏未有取得該等客戶事先授權的情況下，提供予33隻權證的配售代理人，當作該等權證的承配人，而有關權證的發行人則利用該批客戶的姓名來符合於當時有效的香港聯合交易所主板《上市規則》配售指引。有關的配售指引訂有多項規定，當中包括規定一隻權證在上市時，必須分配給充足數目的持有人，其中指明最少要有100名持有人。

證監會發現王氏是知道他所提供的承配人是為了符合這項分配給充足數目人士的規定。然而，證監會發現有關權證事實上缺乏真正的市場，因為所有由王氏介紹的承配人所認購的權證，幾乎在每一個情況下都是在該權證上市後翌日透過配售代理人售回其發行人。而有關權證的認購決定都是由王氏全權酌情決定，該等承配人對此事先並不知情。證監會發現由於王氏為該等配售提供這些虛假的承配人，結果誤導市場及投資大眾，使他們以為上述發行的33隻權證，每一隻都能夠成功推出，因為該等權證在上市時看來都具有充分的需求及達到充足的交投活動水平。然而，事實並非如此。

王氏承認，提供該等承配人以認購有關的權證及以上述方式將權證售回發行人的行為，實屬不當。王氏亦承認，其透過與上述配售代理人之間的配售安排，誤導市場及投資大眾，使他們以為該等權證有較高的需求及交投活動，而事實上卻並非如此。

證監會亦發現王氏違反該配售指引第7段。該段涉及多項規定，其中包括配售代理人的職員不得將任何權證分配給其可以全權酌情決定進行交易的近親帳戶。王氏將有關的權證分配給其妻子及親戚的帳戶，並實際上以全權委託方式操作有關帳戶，因此違反了該指引第7段的規定。

2002年11月26日，王氏在西區裁判法院向盧恒福特委裁判官承認24項違反《證券條例》第80條有關賣空證券規定的控罪，被判罰款48,000元及向證監會支付8,335元的調查費。

基於上述的調查結果及王氏被定罪，王氏同意接納將其根據《證券條例》取得的交易董事及融資人代表的註冊，暫時吊銷4個月，其中3個月是其向權證發行人提供虛假承配人的處分，1個月是其違反賣空規定而被定罪的處分。暫時吊銷王氏的註冊的決定，由2002年9月1日起生效。

在達成這個協議時，證監會已考慮到王氏在查訊期間表現合作，以及香港交易所已在2001年12月10日修改有關衍生權證的上市規定，不再要求上市權證在發行時必須分配給某個最低限度數目的獨立承配人。

證監會法規執行部執行董事李顯能表示：“雖然權證上市時必須具有最低限度數目的獨立公眾持有人的規定已經廢除，但當其在過往有效時仍屬重要的規定。任何人為的計劃如營造出一個現象，使市場以為有關權證在上市時已有最低限度數目的持有人，但事實並非如此的話，便可能會誤導投資者，使他們未能掌握有關權證真正的市場走勢和狀態及其上市後的市場反應，這是不適當的做法。我們將會採取行動紀律處分任何涉及該等計劃的人士。”

完

最後更新日期：2012年8月1日