

SFC Suspends Yang Chih Chen

28 Dec 2006

The SFC has suspended Mr Yang Chih Chen for five months from 28 December 2006 to 27 May 2007 (Note 1).

An SFC investigation found that Yang manipulated the calculated opening price (COP) of the September 2002 Hang Seng Index futures contract (HSIU2) traded on the Hong Kong Futures Exchange Limited (HKFE) during the pre-market opening period on 3 July 2002 (Note 2).

Yang placed a pair of matched limit orders for the HSIU2 contract at his desired level in the last few seconds before expiry of the pre-market opening period. Yang's actions fixed and positioned the COP to his advantage in order to enable his auction sell order to match with the auction buy order placed earlier by another market participant at the artificial price of 10,570. As a result, Yang made a profit of about \$28,000 through his net short positions (Note 3).

In determining the penalty, the SFC has considered Yang's clear record and his consent to the SFC's decision.

Mr Mark Steward, SFC's Executive Director of Enforcement, said: "Manipulators who rig the opening or closing of the market can expect to be caught by the SFC and this result shows it is simply not worth it."

Ends

Notes:

1. Yang was registered as a dealer's representative of Top Equity Derivatives Limited and Top Equity Brokerage Limited (now known as Goldbond Futures Limited and Goldbond Securities Limited) at the relevant time. He is currently licensed under the Securities and Futures Ordinance as a representative to carry on Type 2 (dealing in futures contracts) regulated activity, accredited to Topmore Commodities Limited.

2. In June 2000, the HKFE introduced a pre-market opening period, which is a 30-minute period before the normal trading hours. The price discovery mechanism serves to establish an orderly market and to enhance market efficiency. It was designed to maximise the number of contracts to be matched, based on all the orders entered during the pre-market opening periods. Pre-market opening periods are further divided into three different sessions and each session has unique restrictions on order placing and cancellation. An indicative COP is calculated every time an order is placed, changed and cancelled. Orders are received, ranked and matched at a single price, known as the final COP, determined immediately before the expiry of the pre-market opening periods. An auction order is an order where the order price is not specified and the person placing an auction order agrees to accept an execution at the final COP. A limit order is an order where the order price is specified. Execution of an auction order is accorded with a higher priority than a limit order.

3. In January 2005, the SFC prosecuted Yang for contravening sections 63 and 65 of the Commodities Trading Ordinance (repealed). He was acquitted after trial because the Magistrate was not sure that he had an intention to defraud, a necessary element to establish the offence. Notwithstanding the acquittal, the Magistrate found it was beyond reasonable doubt that Yang was manipulative when he placed the pair of matched limit orders and the purpose was to ensure that the final COP for the HSIU2 contract was fixed at 10,570. On appeal, the High Court decided not to interfere because the Magistrate was entitled to consider that he was not sure about Yang's intention. However, the Appeal Judge also said that it was surprising not to find that Yang was dishonest and had an intention to defraud in view of the facts that were found. Yang's applications for costs before the Magistracy and the High Court were both rejected on the ground that he brought suspicion upon himself.

證監會暫時吊銷楊志誠的牌照

2006年12月28日

證監會已暫時吊銷楊志誠（男）的牌照，為期五個月，由2006年12月28日起至2007年5月27日止（註1）。

證監會的調查發現，楊在2002年7月3日的開市前時段操控在香港期貨交易所有限公司（期交所）買賣的2002年9月份恒指期貨合約(HSIU2)的擬定開市價格（註2）。

楊在開市前時段結束前的最後數秒以其心目中的水平發出一對買賣HSIU2合約的配對限價盤。楊的行為將擬定開市價格設定及設置於對其有利的水平，以使其競價賣盤能夠在10,570點的人為設定價位與另一名市場人士於較早前發出的競價買盤進行配對。結果，楊透過其淨淡倉獲得約28,000元的利潤（註3）。

證監會在釐定罰則時，已考慮到楊以往並無紀律處分的紀錄並同意證監會的決定。

證監會法規執行部執行董事施衛民先生（Mr Mark Steward）表示：“操控市場的開市或收市的操縱者會被證監會揭發，此結果證明不值得以身試法。”

完

備註：

1. 楊在有關時間曾註冊為興寶期貨有限公司及興寶証券有限公司（現時稱為金榜期貨有限公司及金榜証券控股有限公司）的交易商代表。他現時是根據《證券及期貨條例》獲發牌進行第2類（期貨合約交易）受規管活動的代表，並隸屬德盛期貨有限公司。

2. 在2000年6月，期交所引入開市前時段，即在正常交易時間前的30分鐘時段。該價格探索機制旨在使市場的運作井然有序及提高市場效率。這機制旨在根據在開市前時段輸入的所有買賣盤，盡量增加可予配對的合約數目。開市前時段進一步分為三節，每節各有不同的落盤及取消買賣盤的限制。每當有買賣盤發出、更改及取消時，都會計算出一個具指標作用的擬定開市價格。在收取、排列及配對買賣盤時會按緊接開市前時段結束前所釐定的單一價格(即最後擬定開市價格)來進行。競價盤是指沒有指明買賣盤價格的買賣盤，而發出競價盤的人同意按最後擬定開市價來執行有關的買賣盤。限價盤是指明買賣盤價格的買賣盤。競價盤會較限價盤獲得優先執行。

3. 在2005年1月，證監會因為楊違反了《商品交易條例》（已廢除）第63及65條而對他提出檢控。他在審訊後被裁定罪名不成立，原因是裁判官未能確定他有詐騙的意圖，而這是構成該罪行的必要因素。儘管楊被裁定為罪名不成立，但裁判官裁定楊在發出一對配對限價盤時是進行操控一事並無合理疑點，而目的是將HSIU2合約的最後擬定開市價設定在10,570點。經上訴後，高等法院決定不會作出干預裁判官原本的裁決，原因是裁判官有權認為他不能確定楊的意圖。然而，上訴法庭法官亦表示，鑑於所發現到的事實，沒有裁定楊不誠實及有詐騙的意圖令人感到意外。楊在裁判法院及高等法院席前要求獲判給訟費的申請遭到駁回，理由是他令自己受到懷疑。

最後更新日期：2012年8月1日