SFC reprimands and fines Christfund and responsible officers $2.5 million for internal control deficiencies in handling Mainland clients' accounts

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The Securities and Futures Commission (SFC) has issued a reprimand to Christfund Securities Ltd (CSL), Christfund Futures Ltd (CFL) (collectively referred to as Christfund) and their respective responsible officers, and fined them a total of $2.5 million over internal control deficiencies in handling Mainland clients’ accounts.

CSL and CFL were fined $1,200,000 and $700,000 respectively while responsible officers Mr Ng Kam Shing and Mr Chow Yuen Tung were fined $300,000 each in relation to Christfund’s internal control deficiencies in handling Mainland clients’ accounts (Note 1).

An SFC investigation covering the period from August 2007 to July 2008 found that a Shenzhen-based company, Hang Fung Investment Consultants (Shenzhen) Co Ltd (HF Shenzhen) -- an affiliate of Christfund -- provided marketing services for Christfund on the Mainland.

In particular, HF Shenzhen made available account opening forms for Mainland investors to open accounts with Christfund. In handling the account opening process for these Mainland individuals, the SFC found that:

- Christfund had not performed sufficient know-your-client procedures with respect to Mainland clients;
- Christfund took insufficient steps to establish the full identities and addresses of each of these Mainland individuals, thereby failing to establish the accuracy of such information;
- Christfund allowed 22 and 44 such Mainland clients of CSL and CFL respectively to use the office address of HF Shenzhen as their correspondence address. Also, 51 such Mainland clients of CSL were permitted to use the address of one of Christfund’s clients as their correspondence address;
- Christfund allowed about 1,000 clients at CSL to authorise one individual amongst them to operate their accounts on their behalf;
- Christfund had taken insufficient steps to check the operation of two accounts of clients emanating from HF Shenzhen for a prolonged period of time, thereby allowing these accounts to be used to transfer funds to facilitate settlement of transactions in the Mainland clients’ accounts at Christfund, although each transfer is supported by written transfer authorisation by the respective clients; and
- in allowing these matters to occur, Christfund had taken insufficient steps to address the potential regulatory issues arising from inadequate records and the safe custody of client assets, including cash.

As the respective responsible officers of CSL and CFL, Ng and Chow were responsible for the internal control deficiencies identified in the SFC investigation.

In deciding the sanction, the SFC took into account that:

- Christfund was acting in good faith and there is no evidence of any dishonesty on its part or its senior management in its business activities;
- Christfund has co-operated with the SFC by readily accepting responsibility for the above breaches;
- Christfund has agreed to engage an independent audit firm to review the relevant aspects of its internal controls system and account opening procedures. The audit firm will also verify that remedial steps had been taken since the deficiencies were identified;
- Christfund has also agreed that CSL shall: (i) cease operating those Mainland individuals’ client accounts apart from taking those clients’ sell order instructions and returning their securities and remaining balances to those clients; and (ii) cease opening accounts for any Mainland individuals referred by or through HF Shenzhen or any other persons or corporations on the Mainland, unless such practice is in compliance with applicable Mainland laws; and
- CFL, Ng and Chow have not previously been disciplined by the SFC.

“The obligations on Hong Kong licensees to comply fully with Hong Kong’s standards in relation to opening client accounts apply regardless of whether the client is in Hong Kong or not,” the SFC’s Executive Director of Enforcement, Mr Mark Steward, said.

“This case should send a very clear message that the SFC expects licensees to treat clients outside Hong Kong with the same high standards owed to clients who live in Hong Kong. Any SFC licensee operating outside Hong Kong must also comply with applicable laws in that place,” Mr Steward added (Note 2).

End

Notes:

1.CSL is licensed under the Securities and Futures Ordinance (SFO) to carry on business in Type 1 (dealing in securities) regulated activity.
CFL is licensed under the SFO to carry on business in Type 2 (dealing in futures) regulated activity.
Ng is licensed under the SFO to carry on Type 1 (dealing in securities) regulated activity. Ng is a responsible officer of CSL.
Chow is licensed under the SFO to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures) regulated activities. Chow is a responsible officer of CFL.
2. On 1 April 2010, the SFC issued a circular clarifying the licensing obligations of corporations and individuals and more particularly those conducting business outside Hong Kong. A copy of the circular is published on the SFC website (www.sfc.hk).

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