

SFAT affirms SFC decision to suspend Winda Sham Pik Yan for operating secret account

22 Feb 2011

The Securities and Futures Commission (SFC) has suspended Ms Winda Sham Pik Yan for seven months from 18 February 2011 to 17 September 2011 following the determination of the Securities and Futures Appeals Tribunal (SFAT) (Notes 1 & 2).

The SFC found that, whilst working for DBS Vickers (Hong Kong) Limited (DBSV), Sham conducted a substantial amount of personal trading activities through her securities account maintained with Shanghai Commercial Bank (SCB), a registered institution. More importantly, the SFC found that Sham deliberately concealed her SCB account from her employer, DBSV. She also did not disclose her employment with DBSV to SCB, as any such disclosure would have necessitated a request from SCB to DBSV for written consent to conduct securities trading for Sham, as required by the SFC Code of Conduct (Note 3).

The SFC therefore concluded that Sham, by operating a secret account, is not fit and proper to remain a licensed person. The SFC decided to suspend her licence for seven months, taking into account her otherwise clear disciplinary record. Sham applied to the SFAT for a review of the SFC's decision.

On 18 February 2011, the SFAT dismissed Sham's application. The SFAT affirmed the SFC's stance on secret accounts:

"Unless a licensed employee discloses the existence of an outside securities trading account and... submit details of the trading it is simply impossible for the employer to monitor the employee's trading activities. Unless it is able to monitor an employee's trading activities it will not be able to ensure proper compliance with the regulatory requirement, which... is properly aimed at ensuring that there is no conflict of interest between an employee and the client with which the employee deals, and that no advantage is being taken by an employee of inside information."

The SFC welcomes the decision of the SFAT.

The SFC has been waging a campaign against the use of secret accounts by licensed persons since May 2007. The SFC cannot see any legitimate reason for licensed persons to operate secret accounts.

Since 2007, the SFC has taken no less than 17 similar disciplinary actions against licensees (Note 4).

End

Notes:

1. Sham is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities. She was accredited to DBS Vickers (Hong Kong) Limited from July 2000 to September 2009. She is currently accredited to BOCOM International Securities Limited.
2. The SFAT comprised the Honourable Mr Justice Saunders, Chairman of the SFAT, Mr Joseph YW Pang and Ms Cynthia YS Tang. The SFAT's reasons for determination will be available on its website at www.sfat.gov.hk.
3. Paragraph 12.2(c) of the SFC Code of Conduct provides that a licensed or registered person should not knowingly deal in securities or futures contracts for another licensed or registered person's employee unless it has received written consent from that licensed or registered person.
4. Please refer to SFC press releases dated [17 May 2007](#), [26 June 2007](#), [30 July 2007](#), [28 August 2007](#) and [13 November 2007](#).