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SFC bans Koo Yiu Chee for eight months

11 Sep 2013

The Securities and Futures Commission (SFC) has banned Mr Koo Yiu Chee from re-entering the industry for eight months from 10 September 2013 to 9 May 2014 (Note 1).

An SFC investigation found that while Koo was an account executive at China Everbright Securities (HK) Limited (CES), he failed to perform proper account opening and know-your-client procedures and falsely represented that he had explained the risk disclosure statements and witnessed the execution of the account opening documents in relation to a number of his clients who resided in the Mainland (Note 2).

The SFC found that:

- Koo operated from the office of a CES affiliate in Shenzhen (CESPR), and made use of middlemen employed by CESPR to refer clients to him and to handle the new clients' account opening procedures.
- Koo had not met the clients referred to him by the middlemen but nonetheless signed on their account opening documents as a witness and declared that he had explained to them the account opening documents and the risk disclosure statements.

The SFC considers Koo's misconduct called into question his fitness and properness as a licensed person. In deciding the sanction, the SFC took into account all relevant circumstances which included:

- failing to observe the know-your-client requirements may encourage trading malpractices and unlawful activities;
- Koo's signing as witness on the account opening documents of clients he had never met was dishonest; and
- Koo's clean disciplinary record.

Koo had appealed the SFC's decision to the Securities and Futures Appeals Tribunal (SFAT). On Koo's application, the SFAT granted leave for him to withdraw his appeal on 10 September 2013 (Note 3).

End

Notes:

1. Koo was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) regulated activity and was accredited to CES from 27 January 2004 to 27 March 2010. Koo is currently not licensed by the SFC and has no accreditation.
2. The SFC has taken disciplinary actions against CES and its responsible officer Mr Chan Kam Hop as a result of the same investigation. Please see the SFC's press release dated [11 April 2013](#). Koo is the "Mr X" referred to in the press release.
3. Please see SFAT Application No. 2 of 2013 published on the SFAT's website at www.sfat.gov.hk.
4. A copy of the [Statement of Disciplinary Action](#) in relation to the matter is available on the SFC website.

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STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Koo Yiu Chee (**Koo**) from re-entering the industry for eight months pursuant to section 194(1)(b)(iv) of the Securities and Futures Ordinance.
2. The disciplinary action relates to Koo's failure to perform proper account opening and know-your-client procedures, and his false representation that he had explained the risk disclosure statements and witnessed the execution of the account opening documents, in relation to a number of his clients who reside in the Mainland.

Summary of facts

3. Koo was an account executive at China Everbright Securities (HK) Limited (**CES**). Koo reported to Chan Kam Hop (**Chan**), the managing director and responsible officer of CES.
4. The case stemmed from a complaint to CES and the SFC. The complainant (**Complainant**) was a client of CES and Koo was her account executive. Among other things, the Complainant claimed that she did not know Koo was her account executive at CES.
5. As a result of the complaint, CES conducted an internal investigation which found that at least 51 out of 331 of Koo's clients did not know Koo or had no recollection of knowing Koo, even though Koo had signed as witness to the execution of the vast majority of their account opening documents and acknowledged that he had explained the risk disclosure statement and the account opening documents to the relevant clients.
6. During the course of the SFC's investigation, Koo told the SFC that:
 - (a) he operated from the office of a CES affiliate in Shenzhen (**CESPR**) and solicited new clients in the Mainland to open accounts with CES;
 - (b) as it was not possible for him to see all the new clients in the Mainland personally, he hired middlemen in Shenzhen who delivered the account opening documents to the clients for completing the necessary information and for their signature; the middlemen then returned the account opening documents to him, and he, in turn, signed as a witness and submitted the account opening documents for CES' approval; and
 - (c) he had not met around 20% of his clients but nonetheless signed on their account opening documents as a witness and declared that he had explained to them the account opening documents and the risk disclosure statements.
7. One of the middlemen confirmed that she had referred clients to Koo for the purpose of opening accounts with CES and had handled some of the clients' account opening procedures.

8. The SFC also found that CES failed to supervise Koo's operation in CESPR's office and failed to have controls in place to ensure compliance with proper account opening and know-your-client procedures for the accounts emanating from Koo's operation in CESPR. Further, the SFC found that CES' internal control failures are attributable to Chan's neglect in his capacity as a member of the senior management and responsible officer who oversees CES account executives' daily business conduct¹.

Breaches and reasons for action

9. General Principles 1 and 2 of the Code of Conduct² require a licensed representative to act honestly, fairly, with due skill, care and diligence, and in the best interests of his/her clients and the integrity of the market in conducting his business activities. Paragraph 5.1 of the Code of Conduct requires a licensed representative to take all reasonable steps to establish the true and full identity of each of his/her clients, and their financial situation, investment experience and investment objectives.
10. In the circumstances, Koo has:
 - (a) breached General Principle 2 and paragraph 5.1 of the Code of Conduct by failing to perform proper account opening and know-your-client procedures in relation to some of his clients; and
 - (b) breached General Principle 1 of the Code of Conduct by falsely representing that he witnessed the execution of and explained the account opening documents and the risk disclosure statement to a number of his clients when in fact he did not.

Conclusion

11. Having considered all the circumstances, the SFC is of the opinion that Koo's fitness and properness as a licensed person has been called into question.
12. The SFC has decided to take the disciplinary action against Koo as described in paragraph 1 above. In taking such action, the SFC has taken into account all relevant considerations, including that Koo has no previous disciplinary record.

¹ The SFC has taken disciplinary actions against CES and Chan as a result of the same investigation. Please see SFC's press release dated 11 April 2013. Koo is the "Mr X" referred to in the press release.

² Code of Conduct for Persons Licensed by or Registered with the SFC.