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Unlicensed futures contract adviser in jail custody after conviction

24 Oct 2013

The Eastern Magistrates' Court today convicted Mr Gordon Mui Kwong Yin for providing online advice on trading in futures contracts without a licence and remanded him in jail custody pending sentence (Note 1).

The Court heard that between November 2009 and July 2010, whilst unlicensed, Mui, in the name of "Brandon Chan" also known as "Futures King", offered to provide trading advice on Hang Seng Index and the Hang Seng China Enterprises Index futures contracts in the form of "futures trade signals" on a website (<https://sites.google.com/site/futuresking88>) (Note 2).

The website charged a subscription fee of \$300 per "signal" or \$900 for four "signals" and claimed that by following the advice, subscribers would be able to make a profit of 500 to 800 index points in the investment of the futures contracts each time. Mui received approximately \$128,700 from 113 subscribers for his advisory service.

Mui pleaded guilty to the offence. Magistrate Mr Joseph To indicated that one concern he has is that in sentencing, the amount of fine to be imposed should be sufficient in stripping the defendant of the profits earned by the defendant in the illegal activity, otherwise it would render the legislation ineffective and lacks deterrent effect.

The Magistrate adjourned the case to 14 November 2013 for sentencing.

The Securities and Futures Commission (SFC) reminds investors that they should not deal with anyone who promises guaranteed riches from securities or futures dealing. They should always check whether the person is licensed by the SFC to give advice (Note 3).

End

Notes:

1. Mui was convicted under section 114 of the Securities and Futures Ordinance, under which, it is an offence to carry on a business in regulated activities, including advising on futures contracts, without an SFC licence.
2. In order to carry on a business of advising others whether to enter into futures contracts, which futures contracts to enter into, when to enter into them and the terms and conditions on which to enter into them, a person must have an SFC licence. Mui's "futures trading signals" given via the website constituted such advice.
3. Investors can check if a firm or person is licensed on the SFC website (www.sfc.hk).

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無牌期貨合約顧問被裁定罪名成立後還押監房看管

2013年10月24日

東區裁判法院今天裁定，梅廣賢（男）在未領有牌照的情況下於網上就期貨合約交易提供意見罪名成立，並將梅還押監房看管，等候判刑（註1）。

案情指，在2009年11月至2010年7月期間，梅在未領有牌照的情況下，以 "Brandon Chan" 的名義（亦稱為“期指皇”）在網站（<https://sites.google.com/site/futuresking88>）上提出可以“期指入市訊號”的方式就恒生指數及恒生中國企業指數期貨合約提供交易意見（註2）。

該網站所收取的服務訂購費為每個“訊號”300元或四個“訊號”900元，並聲稱只要依從意見行事，訂購人的期貨合約投資便能每次賺取500至800指數點的利潤。梅就其顧問服務向113名訂購人收取了約128,700元。

梅承認有關控罪。杜浩成裁判官表示，他在判刑時應關注到施加的罰款金額應足以剝奪被告在進行非法活動時所賺取的利潤，否則會令有關法例無法有效執行和失去阻嚇力。

裁判官將案件押後至2013年11月14日判刑。

證券及期貨事務監察委員會（證監會）提醒投資者，任何人如承諾可從證券或期貨交易中提供豐厚的保證回報，不應與其進行交易，並應查核提供意見的人士是否領有證監會牌照（註3）。

完

備註：

1. 梅乃根據《證券及期貨條例》第114條被裁定罪名成立。該條文訂明，凡未領有牌照而經營受規管活動（包括就期貨合約提供意見）的業務，即屬犯罪。
2. 任何人如要就以下事宜經營向他人提供意見的業務：是否訂立期貨合約、訂立哪些期貨合約、於何時訂立期貨合約和訂立期貨合約的條款及條件，必須領有證監會牌照。梅透過該網站提供的“期指入市訊號”已構成該等意見。
3. 投資者可在證監會網站（www.sfc.hk）查閱某商號或人士是否證監會持牌人。

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