

SFC bans Sui Yu for regulatory breaches

19 Nov 2013

The Securities and Futures Commission (SFC) has banned Ms Sui Yu from re-entering the industry for three months from 19 November 2013 to 18 February 2014 (Note 1).

An SFC investigation found that in September 2009, Sui sold 6,000 shares of a listed company after she was assigned to lead an execution team in a proposed placement of the company's shares.

At the time Sui sold the 6,000 shares, she knew that a placement was being proposed but was not aware of any other details. While this was confidential, it was insufficiently specific or price-sensitive to constitute inside information.

When Sui sought pre-clearance from her employer as required before selling the shares, she failed to disclose that she had been assigned to lead the execution team in the proposed placement.

Sui's employer placed the listed company on its "watch list" so it was able to prevent inappropriate or illegal staff trading. However, Sui's pre-clearance form was submitted minutes before the listed company was added to the list.

The SFC considers that, by dealing in the shares of the listed company whilst in possession of confidential information about the proposed placement, Sui had put herself in a conflict of interest situation, in breach of the Code of Conduct. The SFC also considers that, by providing wrong information on the pre-clearance form to her employer, Sui had breached the Code of Conduct for failing to act with due skill, care and diligence, and in the best interests of clients (Note 2).

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

- the amount of the trade involved was only \$43,200;
- Sui self-reported the incident to her employer after the trade;
- Sui was dismissed by her employer as a result of the incident; and
- Sui has an otherwise clean disciplinary record.

Intermediaries are reminded that when communicating confidential information about listed companies to staff, where trading in shares of the relevant company by staff needs to be prohibited or monitored, it is prudent for details to be provided to relevant control room staff or for the company to be added to prohibited lists in advance.

The case was referred to the SFC by the Hong Kong Monetary Authority.

End

Notes:

1. At the relevant time, Sui was registered as a relevant individual with the Hong Kong Monetary Authority (HKMA) and was engaged by JPMorgan Chase Bank, N.A. and J.P. Morgan Securities (Asia Pacific) Ltd to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 6 (advising on corporate finance) regulated activities. Sui is currently not licensed by the SFC or registered with the HKMA.
2. General Principle 2 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission requires that a licensed or registered person should act with due skill, care and diligence, in the best interests of clients and the integrity of the market, and General Principle 6 requires that a licensed or registered person should try to avoid conflicts of interest.
3. A copy of the [Statement of Disciplinary Action](#) in relation to the matter is available on the SFC website.

Page last updated : 19 Nov 2013

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Sui Yu (**Sui**)¹ pursuant to section 196 of the Securities and Futures Ordinance (**SFO**) for a period of 3 months from:
 - (a) applying to be licensed or registered;
 - (b) applying to be approved as a responsible officer of a licensed corporation;
 - (c) applying to be given consent to act or continue to act as an executive officer of a registered institution under section 71C of the Banking Ordinance; and
 - (d) seeking through a registered institution to have her name entered in the register maintained by the Monetary Authority under the Banking Ordinance as that of a person engaged by the registered institution in respect of a regulated activity.

2. The SFC found that Sui, while being employed by J.P. Morgan Securities (Asia Pacific) Ltd (**JPMS**), had:
 - (a) put herself in a conflict of interest situation by dealing in the shares of a listed company (**Company**) while in possession of confidential information about a proposed placement of the shares in the Company; and
 - (b) failed to disclose in the pre-clearance form submitted to JPMS for approval to deal in the shares of the Company that she had significant dealings or responsibility with respect to the Company.

Summary of Facts

3. On or around 2 September 2009, Sui, a Vice President in the Investment Banking Division (**IBD**) of JPMS, was assigned to lead an execution team in a proposed placement of the shares of the Company (**Proposed Placement**). The information about the Proposed Placement was confidential.

4. At 10:40 am on 4 September 2009, Sui submitted a pre-clearance request form (**Pre-clearance form**) to the Compliance Department of JPMS for approval to sell 6,000 shares of the Company. Her request was approved at 11:09 am on the same day.

5. In the Pre-clearance form, Sui was required to answer “Yes” or “No” as to whether she had any significant dealings or responsibility with respect to the Company. It was stated in the Pre-clearance form that an employee was not permitted to trade in the shares of a company if the employee’s answer to the question was “Yes”. It was also stated on the Pre-clearance Form that an IBD employee was not permitted to trade in the shares of a company if the

¹ Sui was an individual whose name was entered in the register maintained under section 20 of the Banking Ordinance as a person engaged by JPMorgan Chase Bank, N.A. and J.P. Morgan Securities (Asia Pacific) Ltd in respect of Type 1 (dealing in securities), Type 4 (advising on securities) and Type 6 (advising on corporate finance) regulated activities between 3 April 2006 and 7 October 2009.

employee had been a deal team member in relation to a transaction involving the company within the last 12 months.

6. Although Sui had already been a deal team member of the Proposed Placement at the time, she answered “No” in response to the question.
7. Sui sold 6,000 shares of the Company for the amount of \$43,200 at 12:21pm on 4 September 2009.

Conclusion

8. General Principle 2 (Diligence) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commissions (**Code of Conduct**) requires registered persons to act with due skill, care and diligence, in the best interests of their clients and the integrity of the market, when conducting their business activities.
9. In addition, General Principle 6 (Conflicts of interest) of the Code of Conduct requires that a registered person should try to avoid conflicts of interest.
10. Having considered all the circumstances, the SFC is of the view that Sui’s conduct was in breach of General Principle 2 (Diligence) and General Principle 6 (Conflicts of interest) of the Code of Conduct and called into question her fitness and properness to be a registered person. Accordingly, the SFC has decided to take the disciplinary action against Sui described in paragraph 1 above.
11. In deciding the appropriate sanction, the SFC has taken into account all relevant considerations, including:
 - (a) the amount of the trade involved was only \$43,200;
 - (b) Sui self-reported the incident to her employer after the trade;
 - (c) Sui was dismissed by JPMS as a result of the incident;
 - (d) Sui has an otherwise clean disciplinary record; and
 - (e) Sui’s personal circumstances at the relevant time.

隋昱因違反監管規定遭證監會禁止重投業界

2013年11月19日

證券及期貨事務監察委員會（證監會）禁止隋昱（女）重投業界，為期三個月，由2013年11月19日起至2014年2月18日止（註1）。

證監會調查發現，於2009年9月，隋獲委派領導一執行小組以處理一家上市公司的配股計劃後，出售6,000股該公司的股份。

隋出售該6,000股時知道該公司正計劃進行配股，但並不知悉任何其他詳情。雖然隋所掌握的資訊屬機密性質，但當中並未載有充分具體的詳情或股價敏感資料以構成內幕消息。

隋按規定在出售有關股份前向僱主申請預先審批時，並沒有披露她已獲委派領導該配股計劃的執行小組。

隋的僱主將該上市公司列入“觀察名單”，防止員工不適當或非法買賣有關股份，但隋在該上市公司列入名單前數分鐘遞交了預先審批表格。

證監會認為，隋在掌握有關配股計劃的機密資料的情況下，買賣該上市公司的股份，令自己置身於利益衝突的情況，違反了《操守準則》。證監會同時認為，隋在向僱主遞交的預先審批表格上提供錯誤資料，未有以適當的技能、小心審慎和勤勉盡責的態度行事，以維護客戶的最佳利益，違反了《操守準則》（註2）。

證監會在釐定罰則時，已考慮到：

- 有關交易所涉金額僅為43,200元；
- 隋在有關交易後自行向僱主報告此事；
- 隋已因此事被僱主解僱；及
- 隋並無遭受紀律處分的紀錄。

證監會提醒中介人，向員工傳達關於上市公司的機密資料時，如有需要禁止或監察員工買賣相關公司的股份，為審慎起見，應事先向相關的監控室人員提供詳情或將該公司加入禁止買賣名單。

本個案由香港金融管理局轉介證監會跟進。

完

備註：

1. 在有關期間，隋是獲香港金融管理局（金管局）註冊的有關人士，受聘於JPMorgan Chase Bank, N.A. 及J.P. Morgan Securities (Asia Pacific) Ltd，以進行第1類（證券交易）、第4類（就證券提供意見）及第6類（就機構融資提供意見）受規管活動。隋現時並非證監會持牌人，亦沒有名列於金管局的紀錄冊。
2. 《證券及期貨事務監察委員會持牌人或註冊人操守準則》第2項一般原則規定，持牌人或註冊人須以適當的技能、小心審慎和勤勉盡責的態度行事，以維護客戶的最佳利益及確保市場廉潔穩健，而第6項一般原則規定持牌或註冊人應盡量避免利益衝突。
3. 有關上述事宜的紀律處分行動聲明載於證監會網站。

最後更新日期：2013年11月19日

紀律處分行動聲明

紀律處分行動

1. 證券及期貨事務監察委員會（**證監會**）依據《證券及期貨條例》第196條禁止隋昱（**隋**）¹作出以下事情，為期三個月：
 - (a) 申請牌照或註冊；
 - (b) 申請獲核准成為持牌法團的負責人員；
 - (c) 申請根據《銀行業條例》第71C條獲給予同意以或繼續以註冊機構的主管人員的身分行事；及
 - (d) 透過註冊機構，尋求名列於金融管理專員根據《銀行業條例》備存的紀錄冊並顯示其就某類受規管活動受聘於該機構。
2. 證監會發現，隋受聘於J.P. Morgan Securities (Asia Pacific) Ltd (**JPMS**) 期間，曾作出以下行為：
 - (a) 在掌握有關某上市公司（**該公司**）股份配售計劃的機密資料的情況下，買賣該公司股份，令自己置身利益衝突的情況；及
 - (b) 在向 **JPMS** 遞交預先審批表格以徵求批准買賣該公司股份時，未有在該表格內披露其與該公司有重大事務往來或就該公司負有重大責任。

事實摘要

3. 於或約於2009年9月2日，隋身為**JPMS**投資銀行部副總裁獲委派領導一執行小組，負責處理該公司的股份配售計劃（**該配股計劃**）。有關該配股計劃的資料均屬機密性質。
4. 2009年9月4日上午10時40分，隋向**JPMS**合規部遞交預先審批申請表（**該預先審批表**）以徵求批准將該公司6,000股股份出售，並在同日上午11時09分獲得批准。
5. 該預先審批表要求隋就是否與該公司有重大事務往來或就該公司負有重大責任回答“是”或“否”，並註明如僱員對該問題回答“是”的話，均不得買賣有關公司的股份。該預先審批表亦述明，投資銀行部僱員如在過去12個月內曾以交易小組成員身分處理涉及某公司的交易，均不得買賣有關公司的股份。
6. 雖然隋當時是該配股計劃的交易小組成員，卻在回答該問題時填上“否”。
7. 2009年9月4日下午12時21分，隋以43,200元沽出該公司6,000股股份。

結論

8. 《證券及期貨事務監察委員會持牌人或註冊人操守準則》（《**操守準則**》）第2項一般原則（勤勉盡責）規定，註冊人在經營其業務時，應以適當的技能、小心審慎和勤勉盡責的態度行事，以維護客戶的最佳利益及確保市場廉潔穩健。
9. 此外，《操守準則》第6項一般原則（利益衝突）規定，註冊人應盡量避免利益衝突。

¹ 在2006年4月3日至2009年10月7日期間，隋名列於根據《銀行業條例》第20條備存的紀錄冊，是就第1類（證券交易）、第4類（就證券提供意見）及第6類（就機構融資提供意見）受規管活動而受聘於JPMorgan Chase Bank, N.A.及J.P. Morgan Securities (Asia Pacific) Ltd的人士。

10. 證監會經考慮所有情況後，認為隋的行為違反了《操守準則》第2項一般原則（勤勉盡責）及第6項一般原則（利益衝突），並令人質疑其作為註冊人的適當人選資格。故此，證監會決定對隋取採上文第1段所述的紀律處分行動。
11. 本會在釐定適當罰則時，已考慮過所有相關因素，包括：
 - (a) 有關交易所涉金額僅為43,200元；
 - (b) 隋在有關交易後自行向僱主報告該宗事件；
 - (c) 隋已因該宗事件被JPMS解僱；
 - (d) 隋並無遭受紀律處分的紀錄；及
 - (e) 隋在有關時間的個人情況。

Registration record since 01/04/2003[Close](#)**SUI, YU (AC8948)**

Registered Institution	Regulated Activity(ies)	Effective Period	Role
J.P. MORGAN SECURITIES (ASIA PACIFIC) LIMITED	Type 1: dealing in securities	03/04/2006 - 07/10/2009	Relevant Individual
J.P. MORGAN SECURITIES (ASIA PACIFIC) LIMITED	Type 4: advising on securities	03/04/2006 - 07/10/2009	Relevant Individual
J.P. MORGAN SECURITIES (ASIA PACIFIC) LIMITED	Type 6: advising on corporate finance	03/04/2006 - 07/10/2009	Relevant Individual
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	Type 1: dealing in securities	03/04/2006 - 07/10/2009	Relevant Individual
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	Type 4: advising on securities	03/04/2006 - 07/10/2009	Relevant Individual
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	Type 6: advising on corporate finance	03/04/2006 - 07/10/2009	Relevant Individual