

[Home](#) ▶ [News & announcements](#) ▶ [News](#) ▶ [All news](#)

SFC bans Wong Sze Yiu for six months

26 Oct 2015

The Securities and Futures Commission (SFC) has banned Mr Wong Sze Yiu, a former account executive of Core Pacific-Yamaichi International (H.K.) Limited (CPYI), from re-entering the industry for six months from 26 October 2015 to 25 April 2016 for failures in relation to managing a client's account on a discretionary basis (Note 1).

The disciplinary action follows an investigation by the SFC which found that, from around February or March 2012 until September 2014, Wong conducted discretionary trading in a client's account without obtaining her written authorization, and without the knowledge and approval of his employer.

Although the client verbally authorized Wong to trade in her account on a discretionary basis, the absence of written authorization prevented monitoring and supervision by Wong's employer. The SFC considers that Wong's conduct resulted in non-compliance with the regulatory requirements on the authorization and operation of a discretionary account under the Code of Conduct (Note 2).

In deciding the sanction, the SFC took into account that Wong's misconduct lasted for two and a half years, his clean disciplinary record and his cooperation with the SFC.

End

Notes:

1. Wong was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities. He was accredited to CPYI, Core Pacific-Yamaichi Securities (H.K.) Limited and Core Pacific-Yamaichi Futures (H.K.) Limited between 12 October 2011 and 29 September 2014. Wong is currently not licensed by the SFC.
2. Paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

Page last updated : 26 Oct 2015

[主頁](#) ▶ [新聞稿及公布](#) ▶ [新聞稿](#) ▶ [所有新聞稿](#)

證監會禁止王思堯重投業界六個月

2015年10月26日

證券及期貨事務監察委員會（證監會）因京華山一國際(香港)有限公司（京華山一國際）前客戶主任王思堯（男）在以委託形式管理客戶帳戶方面犯有缺失，禁止其重投業界六個月，由2015年10月26日至2016年4月25日止（註1）。

證監會經調查後採取上述紀律處分行動。調查發現大約在2012年2月或3月至2014年9月的期間，王在未取得客戶的書面授權及在他的僱主不知情及未批准的情況下，以委託形式在該客戶的帳戶內進行買賣。

該客戶雖曾口頭上授權王以委託形式在其帳戶內進行買賣，但卻沒有作出書面授權，這令王的僱主無法進行檢察及監督。證監會認為，王的行為並沒有遵守《操守準則》內有關委託帳戶的授權及操作的監管規定（註2）。

證監會在決定上述處分時，已考慮王的失當行為持續了兩年半、他並無遭受紀律處分的紀錄及願意與證監會合作。

完

備註：

1. 王曾根據《證券及期貨條例》獲發牌進行第1類（證券交易）及第2類（期貨合約交易）受規管活動。他於2011年10月12日至2014年9月29日期間隸屬京華山一國際、京華山一證券(香港)有限公司及京華山一期貨(香港)有限公司。王現時並非證監會持牌人。
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7.1段。

[紀律處分行動聲明載於證監會網站](#)

最後更新日期：2015年10月26日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Wong Sze Yiu (**Wong**)¹ for a period of 6 months pursuant to section 194(1)(iv) of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that Wong effected transactions in a securities account of a client (**Client**) at Core Pacific-Yamaichi International (H.K.) Limited (**CPYI**) on a discretionary basis without obtaining written authorization from the Client.
3. Wong's conduct was in breach of General Principle 2 and paragraph 7.1 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**).

Summary of Facts

4. Wong was an account executive (**AE**) accredited to CPYI between October 2011 and September 2014.
5. The Client, who was introduced to Wong by her relative, opened a cash securities account (the **Account**) at CPYI on 6 December 2011. Wong was the responsible AE of the Account.
6. Two to three months after the Client opened the Account, she verbally authorized Wong to trade in the Account on a discretionary basis since she was not always in Hong Kong. Wong admitted that during the period from around February or March 2012 until September 2014, he conducted trades in the Account on a discretionary basis without obtaining written authorization from the Client although he knew that this was against CPYI's internal policies.
7. The operation of discretionary accounts was discouraged by CPYI as they involved high risks. Pursuant to CPYI's policy, such arrangement must be subject to the approval of senior management at the CEO level. However, Wong never informed CPYI and there was no documentation showing that he was operating the Account on a discretionary basis.
8. CPYI's internal policies on discretionary accounts which was set out in its compliance manual (**Compliance Manual**) mirror paragraph 7.1 of the Code of Conduct. Paragraph 7.1(a) of the Code of Conduct requires a licensed person to obtain a written authorization before he can operate a discretionary account for a client. Paragraph 7.1(c) of the Code of Conduct requires a licensed person to designate such account as discretionary account.

¹ Wong was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities. He was accredited to Core Pacific-Yamaichi International (H.K.) Limited, Core Pacific-Yamaichi Securities (H.K.) Limited and Core Pacific-Yamaichi Futures (H.K.) Limited between 12 October 2011 and 29 September 2014. Wong is currently not licensed by the SFC.

Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of a discretionary account.

9. In September 2011 and March 2012, Wong signed a document confirming his understanding of and strict compliance with the Compliance Manual. He also signed a form acknowledging that AEs were prohibited from operating client's account discretionarily without proper authorization in writing. Notwithstanding this, Wong admitted that in fact he did not review the contents of the Compliance Manual nor did he read the policies and codes relating to the operation of a discretionary account.
10. Accordingly, the regulatory requirements on the authorisation and operation of a discretionary account provided for at paragraph 7.1 of the Code of Conduct were not followed as Wong effected transactions in the Account on a discretionary basis without obtaining written authorization from the Client. Further, as the management of CPYI was not aware of the Client's verbal authorization for Wong to manage the Account, it was not designated as a discretionary account by the firm and senior management's approval to operate it as such had never been obtained.
11. As a licensed representative, Wong had a duty to ensure that the Client signed a written authorization before conducting trades in the Account on a discretionary basis. A written authorization, with a clearly defined scope of authority and precise terms and conditions on how the discretion will be exercised, is important because it protects the client from the risk of unauthorized trades and the licensed corporation from unnecessary claims in case the client disputes the trades.

Conclusion

12. Having considered all the circumstances, the SFC is of the view that Wong's conduct has called into question his fitness and properness to remain licensed. Further, he has not met the standards required of him under General Principle 2 (Diligence) and paragraph 7.1 (Authorisation and operation of a discretionary account) of the Code of Conduct. In light of the above, the SFC has decided to take the disciplinary action against Wong described in paragraph 1.
13. In determining the appropriate sanction, the SFC took into account all relevant circumstances, including that:
 - (a) Wong was aware that CPYI did not permit the operation of discretionary accounts but nonetheless proceeded to do so at the Client's request for the purpose of earning more commission income;
 - (b) Wong's misconduct in operating the Account on a discretionary basis without obtaining written authorization from the Client lasted for two and a half years;
 - (c) Wong admitted his misconduct and was remorseful;
 - (d) Wong has an otherwise clean disciplinary record; and
 - (e) Wong's cooperation with the SFC.

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》（**該條例**）第 194(1)(iv)條禁止王思堯（**王**）¹重投業界，為期六個月。
2. 證監會發現，王在未取得京華山一國際(香港)有限公司（**京華山一國際**）一名客戶（**該客戶**）的書面授權下，以委託形式在該客戶的證券帳戶內進行交易。
3. 王的行為違反了《證監會持牌人或註冊人操守準則》（**《操守準則》**）第 2 項一般原則及第 7.1 段。

事實摘要

4. 王於 2011 年 10 月至 2014 年 9 月期間是隸屬京華山一國際的客戶主任。
5. 該客戶經由其親戚介紹認識王，並於 2011 年 12 月 6 日在京華山一國際開設了一個現金證券帳戶（**該帳戶**）。王是負責該帳戶的客戶主任。
6. 在該帳戶開立後兩至三個月，該客戶因並非經常身處香港，於是在口頭上授權王以委託形式在該帳戶內進行買賣。王承認於大約 2012 年 2 或 3 月至 2014 年 9 月的期間內，他在未取得該客戶的書面授權下，以委託形式在該帳戶內進行買賣，而他明知此舉有違京華山一國際的內部政策。
7. 由於委託帳戶涉及甚高風險，京華山一國際並不鼓勵操作該類帳戶。京華山一國際的政策規定，有關安排必須經由行政總裁級別的高級管理人員批准，方可執行。然而，王從未向京華山一國際作出通報，而且並無任何文件紀錄顯示他以委託形式操作該帳戶。
8. 京華山一國際在其合規手冊（**該合規手冊**）內就委託帳戶所訂的內部政策，與《操守準則》第 7.1 段大致相同。《操守準則》第 7.1(a)段規定，持牌人必先取得書面授權，才可為客戶操作委託帳戶。《操守準則》第 7.1(c)段規定，持牌人須指明有關帳戶為委託帳戶。《操守準則》第 7.1(d)段規定，委託帳戶的開立應由高級管理層審批。
9. 於 2011 年 9 月及 2012 年 3 月，王簽署文件確認其明白並會嚴格遵守該合規手冊。他亦簽署了一份表格，以示知悉客戶主任被禁止在未經適當的書面授權下以委託形式操作客戶的帳戶。儘管如此，王承認他其實並無翻閱該合規守冊的內容，亦沒有閱讀有關操作委託帳戶的政策及守則。
10. 王沒有遵守《操守準則》第 7.1 段就委託帳戶的授權及操作所訂明的監管規定，在未取得該客戶的書面授權下以委託形式在該帳戶內進行交易。此外，由於京華山一國際的管理層對該客戶口頭上授權王管理該帳戶一事並不知情，故該公司未有將該帳戶指定為委託帳戶，而王亦從沒就以委託形式操作該帳戶取得高級管理層的批准。
11. 王身為持牌代表，有責任在以委託形式於該帳戶內進行買賣前，確保該客戶已簽署書面授權。在書面授權內清楚界定授權範圍和列明如何行使酌情權的明確

¹ 王曾根據《證券及期貨條例》獲發牌進行第 1 類（證券交易）及第 2 類（期貨合約交易）受規管活動。他於 2011 年 10 月 12 日至 2014 年 9 月 29 日期間隸屬京華山一國際(香港)有限公司、京華山一證券(香港)有限公司及京華山一期貨(香港)有限公司。王現時並非證監會持牌人。

條款及條件是十分重要的，原因是這樣既可保障客戶，免其承受未經授權買賣的風險，以及若客戶對買賣有爭議時，亦可保障持牌法團免遭不必要的索償。

結論

12. 證監會經考慮所有情況後，認為王的行為令其作為繼續持牌的人選的適當性受到質疑。此外，他並未符合《操守準則》第 2 項一般原則（勤勉盡責）及第 7.1 段（有關委託帳戶的授權及操作）對其所規定的標準。有鑑於此，證監會決定對王採取第 1 段所述的紀律處分行動。
13. 證監會在決定適當的制裁時，已考慮到所有相關情況，當中包括：
 - (a) 王明知京華山一國際不允許操作委託帳戶，但卻為了賺取更多的佣金收入而應該客戶的要求如此行事；
 - (b) 王在未取得該客戶的書面授權下以委託形式操作該帳戶的失當行為，持續了兩年半；
 - (c) 王承認犯有失當行為並表示悔意；
 - (d) 王並無遭受紀律處分的紀錄；及
 - (e) 王願意與證監會合作。