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SFC reprimands and fines Lui Chi Hang \$300,000

6 Jan 2016

The Securities and Futures Commission (SFC) has reprimanded and fined Mr Lui Chi Hang \$300,000 for account opening failures and lending money to a client (Notes 1 & 2).

The disciplinary action follows an investigation by the SFC which found that Lui, a former relationship manager of ABN Amro Bank N.V. (the Bank), failed to follow the account opening procedures required under the Code of Conduct to verify the identities of his clients who resided in Taiwan (Note 3).

The SFC also found that Lui had a potential conflict of interest by lending money to a client in his personal capacity on three occasions (Note 4).

The SFC is of the view that Lui's conduct fell short of the standard expected of him under the Code of Conduct and was also in breach of the Bank's internal policies (Note 5).

In deciding the disciplinary sanction, the SFC took into account Lui's cooperation with the SFC in resolving the disciplinary action and his otherwise clean disciplinary record.

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

End

Notes:

1. At the material time, Lui was a relevant individual engaged by ABN Amro Bank N.V. (now known as The Royal Bank of Scotland N.V.) to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities under the Securities and Futures Ordinance (SFO). His registration with the HKMA ceased on 22 September 2008.
2. Lui is accredited to BOCI Securities Limited as a representative for Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities since 2 December 2008 and 15 December 2010 respectively.
3. Paragraph 5.1 of the Code of Conduct for Persons Licensed by and Registered with the SFC (Code of Conduct) requires a licensed or registered person to take all reasonable steps to establish the true and full identity of each of its clients. In particular, when the account opening documents are not executed in the presence of the licensed or registered person, the new client's identity must be verified by following the procedures set out under paragraph 5.1 of the Code of Conduct.
4. General Principle 6 of the Code of Conduct requires that a licensed or registered person should try to avoid conflicts of interest, and when they cannot be avoided, should ensure that his clients are fairly treated.
5. General Principle 2 of the Code of Conduct requires a licensed or registered person to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market.

[A copy of the Statement of Disciplinary Action in relation to the matter is available on the SFC website.](#)

Page last updated : 6 Jan 2016

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded Lui Chi Hang¹ and fined him HK\$300,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that Lui failed to follow proper account opening procedures in relation to three clients who resided in Taiwan. The SFC also found that Lui, in his personal capacity, lent money to a client.

Summary of facts

3. Lui was a relationship manager of ABN Amro Bank N.V. (**Bank**) responsible for handing clients' accounts.
4. One of Lui's clients (**Client**) introduced her three siblings (**Client's Siblings**), who resided in Taiwan, to open accounts with the Bank. Lui was also the relationship manager of the Client's Siblings and handled the account opening procedures for them.
5. The SFC found that Lui was not present when the Client's Siblings executed the account opening documents in Taiwan. Lui had taken certain steps to verify the identities of the Client's Siblings such as confirming their instructions over the phone and sending/collecting the account opening documents to/from the Client's Siblings' specified addresses by courier.
6. However, Lui did not ensure that the signing of the client agreements and the related identity documents were properly certified, nor did Lui properly verify the identity and signature of each of the Client's Siblings by following the procedural steps set out in paragraph 5.1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**).
7. The evidence does not suggest that the accounts of the Client's Siblings were the Client's nominee accounts.
8. Lui's failures were also in breach of the Bank's internal policies.
9. The SFC also found that on three occasions, Lui lent money to the Client for the settlement of the Client's equity-linked notes subscriptions and for the Client's credit card payment. The Client repaid Lui, however such conduct was in breach of the Bank's internal policies which prohibited its staff from lending money to clients.

¹ At the material time, Lui was a relevant individual engaged by ABN Amro Bank N.V. (now known as The Royal Bank of Scotland N.V.) to carry on Type 1 (Dealing in securities) and Type 4 (Advising on securities) regulated activities under the Securities and Futures Ordinance (SFO) since 16 August 2004 and 20 September 2008 respectively. His registration with the HKMA ceased on 22 September 2008. He is currently accredited to BOCI Securities Limited as a representative for Type 1 (Dealing in securities) and Type 2 (Dealing in futures contracts) regulated activities since 2 December 2008 and 15 December 2010 respectively.

General Principle 2 (Diligence) and paragraph 5.1 of the Code of Conduct (Know your client: in general)

10. General Principle 2 of the Code of Conduct requires a licensed or registered person to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market.
11. Paragraph 5.1 of the Code of Conduct requires a licensed or registered person to take all reasonable steps to establish the true and full identity of each of its clients. In particular, when the account opening documents are not executed in the presence of the licensed or registered person, the new client's identity must be verified by either of the following procedures:
 - (a) the signing of the Client Agreement and sighting of related identity documents should be certified by a licensed/registered person or its affiliate, a Justice of the Peace, or a professional person; or
 - (b) the licensed or registered person should obtain a signed physical copy of the Client Agreement together with a copy of the client's identity document for verification and encash a cheque issued by the new client.² The client should be informed of this procedure and proper records of the client identification procedures should be kept.

General Principle 6 (Conflicts of interest)

12. General Principle 6 of the Code of Conduct requires that a licensed or registered person should try to avoid conflicts of interest, and when they cannot be avoided, should ensure that his clients are fairly treated.

Conclusion

13. The SFC is of the view that Lui had failed to strictly follow the client verification procedures as set out in paragraph 5.1 of the Code of Conduct. In doing so, Lui's conduct fell short of the standard expected of him under General Principle 2 of the Code of Conduct. Lui's failure to carry out proper account opening procedures for his clients, which is an integral part of the know your client process, may have prejudiced the clients' interests, as well as exposed himself and the Bank to regulatory risks.
14. Further, by lending money to his clients, Lui had a potential conflict of interest. As the Client's relationship manager, Lui had a duty to act in the Client's best interest and such duty might have been in conflict with his interest as the Client's creditor. The SFC considers that Lui fell short of the standard expected of him under General Principle 6 of the Code of Conduct.
15. Accordingly, the SFC has decided to take the disciplinary action against Lui described in paragraph 1 above.

² The cheque must be for an amount of not less than HK\$10,000. The cheque should be issued by the new client and drawn on the client's account with a licensed bank in Hong Kong. The cheque must bear the client's name as shown in his identity document and the signature on the cheque issued by the client and the signature on the Client Agreement must be the same.

16. In deciding the appropriate sanction, the SFC has taken into account all relevant considerations, including Lui's co-operation with the SFC in resolving the disciplinary action and his otherwise clean disciplinary record.

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證監會譴責雷志恒及處以罰款30萬元

2016年1月6日

雷志恒（男）因開戶缺失及借款予一名客戶，遭證券及期貨事務監察委員會（證監會）譴責及罰款30萬元（註1及2）。

證監會經調查後採取上述紀律處分行動。調查發現，雷在ABN Amro Bank N.V.（該銀行）任職客戶經理期間，未有遵從《操守準則》所規定的開戶程序核實其居於台灣的客戶的身分（註3）。

證監會亦發現，雷先後三次以個人身分借款予一名客戶，產生潛在利益衝突（註4）。

證監會認為雷的行為未能符合《操守準則》要求他應達到的標準，並且違反了該銀行的內部政策（註5）。

證監會在決定上述紀律處分時，考慮到雷在與證監會解決紀律處分行動一事上表現合作，及以往並無遭受紀律處分的紀錄。

本個案由香港金融管理局轉介證監會跟進。

完

備註：

1. 雷在關鍵時間是受聘於ABN Amro Bank N.V.（現稱The Royal Bank of Scotland N.V.）進行《證券及期貨條例》下第1類（證券交易）及第4類（就證券提供意見）受規管活動的有關人士。他在金管局的註冊已於2008年9月22日終止。
2. 雷現時隸屬中銀國際證券有限公司，並分別由2008年12月2日及2010年12月15日起以代表身分進行第1類（證券交易）及第2類（期貨合約交易）受規管活動。
3. 《證監會持牌人或註冊人操守準則》（《操守準則》）第5.1段訂明，持牌人或註冊人應採取一切合理步驟，以確立其每位客戶的真實和全部的身分。尤其是，若開戶文件並非在持牌人或註冊人面前簽立，新客戶的身分必須根據《操守準則》第5.1段中所列明的程序加以核實。
4. 《操守準則》第6項一般原則訂明，持牌人或註冊人應盡 避免 益衝突，而當無法避免時，應確保其客戶得到公平對待。
5. 《操守準則》第2項一般原則訂明，持牌人或註冊人應以適當的技能、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。

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：2016年1月6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）根據《證券及期貨條例》第 194 條，對雷志恒¹作出公開譴責並罰款 30 萬港元。
2. 證監會發現，雷未有就三名居於台灣的客戶遵從適當的開戶程序。證監會亦發現，雷曾以個人身分借款予一名客戶。

事實摘要

3. 雷之前是 ABN Amro Bank N.V.（該銀行）的客戶經理，負責處理客戶帳戶。
4. 雷的其中一名客戶（該客戶）介紹其居於台灣的兄長及姊妹三人（該客戶的家人）於該銀行開立帳戶。雷亦是該客戶的家人的客戶經理，並為他們處理開戶程序。
5. 證監會發現，當該客戶的家人於台灣簽立開戶文件時，雷並不在場。雷曾採取若干步驟核實該客戶的家人的身分，例如透過電話確認他們的指示，及以專人送遞方式向／從他們指定的地址寄送／收取開戶文件。
6. 然而，雷沒有確保客戶協議的簽立及有關身分證明文件獲適當地驗證，亦無遵從《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 5.1 段所列明的程序，適當地逐一核實該客戶的家人的身分和簽名。
7. 有關證據並無顯示該客戶的家人的帳戶是該客戶的代名人帳戶。
8. 雷所犯的缺失亦違反了該銀行的內部政策。
9. 證監會亦發現雷先後三次借款予該客戶，以供該客戶支付股票掛鈎票據的認購款項及償還信用卡欠款。該客戶雖已還款予雷，但雷的行為違反了該銀行禁止其員工借款予客戶的內部政策。

《操守準則》第 2 項一般原則（勤勉盡責）及第 5.1 段（認識你的客戶：概論）

10. 《操守準則》第 2 項一般原則訂明，持牌人或註冊人應以適當的技能、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。
11. 《操守準則》第 5.1 段訂明，持牌人或註冊人應採取一切合理步驟，以確立其每位客戶的真實和全部的身分。尤其是，如開戶文件並非在持牌人或註冊人面前簽立，新客戶的身分必須透過以下任何一項程序加以核實：
 - (a) 客戶協議的簽立，及有關的身分證明文件的見證，應由持牌人／註冊人或其聯繫人士、太平紳士或專業人士加以驗證；或

¹ 在關鍵時間，雷是受聘於 ABN Amro Bank N.V.（現稱 The Royal Bank of Scotland N.V.）的有關人士，並分別由 2004 年 8 月 16 日及 2008 年 9 月 20 日起進行《證券及期貨條例》下第 1 類（證券交易）及第 4 類（就證券提供意見）受規管活動。他在金管局的註冊已於 2008 年 9 月 22 日終止。他現時隸屬中銀國際證券有限公司，並分別由 2008 年 12 月 2 日及 2010 年 12 月 15 日起以代表身分進行第 1 類（證券交易）及第 2 類（期貨合約交易）受規管活動。

- (b) 持牌人或註冊人應取得一份已簽署的客戶協議連同該客戶的身分證明文件副本作核實之用，及將新客戶所簽發的支票²兌現。該客戶應獲告知有關程序，而客戶身分確認程序的適當紀錄應予保留。

第6項一般原則（利益衝突）

12. 《操守準則》第6項一般原則訂明，持牌人或註冊人應盡量避免利益衝突，而當無法避免時，應確保其客戶得到公平的對待。

結論

13. 證監會認為，雷沒有嚴格遵守《操守準則》第5.1段所列明的客戶核實程序。在這個過程中，雷的行為未能符合《操守準則》第2項一般原則要求他達到的標準。雷未有為其客戶進行適當的開戶程序，而該等程序是認識你的客戶過程中的重要組成部分，此缺失可能令其客戶的利益受損，亦可能令其本身及該銀行承受監管風險。
14. 此外，雷借款予其客戶一事令他有潛在利益衝突。身為該客戶的客戶經理，雷有責任以其客戶的最佳利益行事，而此責任卻可能與他作為該客戶的債權人的利益有所衝突。證監會認為雷未能符合《操守準則》第6項一般原則要求他達到的標準。
15. 因此，證監會決定對雷採取上文第1段所述的紀律處分行動。
16. 證監會在決定適當的制裁時已考慮到所有相關情況，包括雷在與證監會解決紀律處分行動一事上表現合作，及他以往並無遭受紀律處分的紀錄。

² 該支票的數額不得少於10,000港元。該支票應由新客戶在香港持牌銀行開立的帳戶簽發，當中必須載有該客戶在身分證明文件上所顯示的姓名，而由該客戶簽發的支票上的簽名，必須與客戶協議的簽名相符。