

SFC bans Ng Chau for six months

27 Dec 2017

The Securities and Futures Commission (SFC) has banned Mr Ng Chau, a former account executive of Get Nice Securities Limited (Get Nice), from re-entering the industry for six months from 15 December 2017 to 14 June 2018 for breach of the SFC's Code of Conduct (Notes 1 & 2).

The SFC found that Ng effected transactions in a client's securities account and margin account between October 2013 and November 2014 on a discretionary basis without (i) obtaining the client's prior written authorization and (ii) the knowledge and approval of his then employer.

Although the client had verbally authorized Ng to trade in her accounts on a discretionary basis, the absence of a written authorization prevented Get Nice from monitoring the operation of the client's accounts.

The SFC is of the view that Ng's conduct was in breach of the regulatory requirements on the authorization and operation of a discretionary account under the Code of Conduct.

In deciding the penalty, the SFC took into account the duration of Ng's misconduct, his clean disciplinary record and that he had compensated the affected client for all the trading losses incurred in the accounts.

End

Notes:

1. Ng was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) regulated activity and accredited to Get Nice Securities Limited from 18 December 2009 to 15 April 2015. Ng is currently not licensed by the SFC.
2. Paragraph 7.1(a)(ii) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct) requires a licensed person to obtain the client's written authorization before operating a discretionary account for the client. Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of discretionary accounts.

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

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證監會禁止吳鶯重投業界六個月

2017年12月27日

結好證券有限公司（結好證券）前客戶主任吳鶯（男）因違反了證監會《操守守則》，遭證券及期貨事務監察委員會（證監會）禁止其重投業界六個月，由2017年12月15日至2018年6月14日止（註1及2）。

證監會發現，吳於2013年10月至2014年11月期間，在 (i) 沒有事先取得客戶書面授權，並 (ii) 在當時僱主不知情及沒有作出批准的情況下，以委託形式在客戶的證券帳戶及保證金帳戶內進行交易。

該名客戶雖曾口頭上授權吳以委託形式在她的帳戶內進行買賣，但在沒有書面授權的情況下，結好無法監察該名客戶的帳戶運作情況。

證監會認為，吳的行為違反了《操守準則》有關委託帳戶的授權及操作的監管規定。

證監會在釐定罰則時，已考慮到吳的失當行為持續的時間、其過往並無遭受紀律處分的紀錄，以及他已對受影響客戶就其致使該等帳戶所蒙受的所有交易損失作出賠償。

完

備註：

1. 吳曾根據《證券及期貨條例》獲發牌進行第1類（證券交易）受規管活動，並在2009年12月18日至2015年4月15日期間隸屬結好證券有限公司。吳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》（《操守準則》）第7.1(a)(ii)段訂明，持牌人須先取得客戶書面授權方可為客戶操作委託帳戶。《操守準則》第7.1(d)段訂明，委託帳戶的開立應由高級管理層審批。

有關紀律處分行動聲明載於證監會網站

最後更新日期：2017年12月27日

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Ng Chau (**Ng**), a former account executive of Get Nice Securities Limited (**Get Nice**), from re-entering the industry for six months pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that, from October 2013 to November 2014, Ng effected transactions for a client on a discretionary basis without obtaining the client's prior written authorisation, and without the knowledge and approval of his then employer.
3. Ng'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. Ng was an account executive accredited to Get Nice between December 2009 and April 2015.
5. Ng introduced a client to open a securities account at Get Nice on 3 June 2013 and a margin account on 3 July 2014 (**Accounts**). Ng was the responsible account executive of the Accounts.
6. In April 2015, the client lodged a complaint to Get Nice and to the SFC alleging, among other things, that Ng had conducted discretionary trading in the Accounts without her authorisation.
7. In October 2013, the client deposited money in her cash securities account and verbally authorised Ng to conduct trades on her behalf. Ng admitted that, from October 2013 onwards, he conducted trades in the Accounts on a discretionary basis without obtaining the client's prior written authorisation.
8. In April 2015, Ng compensated the client by repaying in full the trading losses that he incurred in the Accounts.
9. Paragraph 7.1(a)(ii) of the Code of Conduct requires a licensed person to obtain a written authorisation before he can operate a discretionary account for a client. Paragraph 7.1(c) of the Code of Conduct require a licensed person to designate such account as a discretionary account. Paragraph 7.1(d) of the Code of Conduct require senior management to approve the opening of a discretionary account.
10. As a licensed representative, Ng had a duty to ensure that the client signed a written authorisation before conducting trades in the Accounts on a discretionary basis. A written authorisation, 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 risks of unauthorised trades and the licensed corporation from unnecessary claims in the case the client disputes the trades.

11. Ng's failure to obtain a written authorisation from the client before effecting transactions in the Accounts on a discretionary basis is a breach of paragraph 7.1(a)(ii) of the Code of Conduct. Ng's conduct also fell short of General Principle 2 of the Code of Conduct, which requires a licensed or registered person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market in conducting its business activities.

Conclusion

12. Compliance by employees of the requirement to obtain a written authorisation from a client before they carry out discretionary trading in the client accounts is essential to prevent risks to both the client and the licensed corporation.
13. The SFC's view is that Ng's conduct falls short of the standard required of him and has breached General Principle 2 and paragraph 7.1(a)(ii) of the Code of Conduct.
14. In coming to the decision to take disciplinary action against Ng in paragraph 1 above, the SFC has taken into account all relevant circumstances, including the duration of Ng's misconduct, his clean disciplinary record and that he has compensated the client for all trading losses in the Accounts.

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 條禁止結好證券有限公司（**結好證券**）前客戶主任吳鷺先生（**吳**）重投業界六個月。
2. 證監會發現，從 2013 年 10 月至 2014 年 11 月，吳在沒有事先取得客戶書面授權，並在當時的僱主不知情及沒有作出批准的情況下，以委託形式為客戶進行交易。
3. 吳的行為違反了《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. 吳在 2009 年 12 月至 2015 年 4 月期間是隸屬結好證券的客戶主任。
5. 吳於 2013 年 6 月 3 日介紹一名客戶於結好證券開立證券帳戶，並於 2014 年 7 月 3 日開立保證金帳戶（**該等帳戶**）。吳是負責該等帳戶的客戶主任。
6. 於 2015 年 4 月，該名客戶向結好證券及證監會作出投訴，除其他事項外，指吳在沒有取得她授權的情況下，以委託方式於該等帳戶內進行交易。
7. 於 2013 年 10 月，該名客戶將資金存入她的現金證券帳戶，並在口頭上授權吳代表她進行交易。吳承認，從 2013 年 10 月起，他在沒有事先取得該名客戶書面授權的情況下，以委託形式於該等帳戶內進行買賣。
8. 於 2015 年 4 月，吳向該名客戶作出賠償，全數退還其致使該等帳戶所蒙受的交易損失。
9. 《操守準則》第 7.1(a)(ii)段訂明，持牌人須先取得書面授權方可為客戶操作委託帳戶。《操守準則》第 7.1(c)段訂明，持牌人應指明有關帳戶為委託帳戶。《操守準則》第 7.1(d)段訂明，委託帳戶的開立應由高級管理層審批。
10. 吳作為持牌代表，在以委託形式在該等帳戶內進行買賣前，有責任確保該名客戶已簽署書面授權。在書面授權內清楚釐定授權範圍，以及載有關乎如何行使酌情權的明確條款及條件是十分重要的，原因是這樣可保障客戶，免其承受未經授權買賣的風險，以及若客戶對買賣有所爭議，亦可保障持牌法團免遭不必要的索償。
11. 吳未能先取得該名客戶的書面授權便以委託形式於該等帳戶內進行交易，違反了《操守準則》第 7.1(a)(ii)段的規定。吳的行為亦不符合《操守準則》第 2 項一般原則，而該項原則規定持牌人或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。

結論

12. 僱員須遵守有關先取得客戶書面授權方以委託形式於客戶帳戶內進行交易的規定，這對避免對客戶及持牌法團造成風險來說，至為重要。

13. 證監會認為，吳的行為不符合其應達到的標準，並違反了《操守準則》第 2 項一般原則及第 7.1(a)(ii)段。
14. 證監會在決定對吳採取上文第 1 段所述的紀律處分行動時，已考慮到所有相關情況，包括吳的失當行為持續的時間、其過往並無遭受紀律處分的紀錄，以及其已就該等帳戶的所有交易損失對該名客戶作出賠償。