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SFC issues restriction notice to a broker to freeze client accounts related to a corporate officer's suspected breach of duties

27 Sep 2019

The Securities and Futures Commission (SFC) has issued a restriction notice to KGI Asia Limited (KGI), prohibiting the broker from dealing with or processing certain assets held in several client accounts which are beneficially owned by an individual who is suspected of breaching his duties towards a listed corporation (Notes 1 & 2).

The SFC is not investigating KGI, which has cooperated with the SFC's investigation. The restriction notice does not affect KGI's operations or its other clients.

The restriction notice prohibits KGI, without the SFC's prior written consent, from disposing of or dealing with, assisting, counselling or procuring another person to dispose of or deal with certain assets in those accounts in any way. KGI is also required to notify the SFC if it receives any of these instructions.

The SFC will soon commence civil proceedings under section 214 of the Securities and Futures Ordinance (SFO) in the Court of First Instance against the listed corporation's management team which includes the individual who holds those accounts. The SFC will also seek court orders against that individual to pay compensation to the listed corporation concerned.

In such circumstances, the SFC considers that the issue of the restriction notice, which preserves the assets in those accounts, is desirable in the interest of the investing public and in the public interest.

End

Notes:

1. The SFC issued the restriction notice under section 204 and 205 of the SFO.
2. KGI is a corporation licensed under the SFO to carry on Types 1 and 4 regulated activities.

Page last updated : 27 Sep 2019

**Notice under Sections 204 and 205 of the
Securities and Futures Ordinance
Cap. 571 (SFO)**

It appears to the Securities and Futures Commission (**Commission**), for the reasons set out in the Statement of Reasons of this date, that the Commission should exercise the powers conferred by sections 204 and 205 of the SFO.

THE COMMISSION GIVES NOTICE THAT:

Except with the Commission's prior written consent, such consent to be granted by any two Executive Directors of the Commission:

1. Under sections 204(1)(a) and 205(1) of the SFO, KGI Asia Limited (**the Specified Corporation**) is, in respect of the following accounts (**the Accounts**):

Account no.
10001058602
10000444406
10001406979

- (a) prohibited from disposing of or dealing with, assisting, counselling or procuring another person to dispose of or deal with, any assets in the Accounts in any way up to a total value of HK\$251,911,089 including:
 - (i) entering into transactions in respect of any securities;
 - (ii) processing any withdrawals or transfers of securities and/or cash or any transfers of money arising from a disposal of securities;
 - (iii) disposing of or dealing with any securities or cash on the instructions of any authorized person of the Accounts or any person acting on their behalf;
 - (iv) assisting another person to dispose of any relevant property or deal with any relevant property in a specified manner;
 - (b) required to notify the Commission immediately upon receipt of any instruction from the authorized person of the Accounts, or any person acting on their behalf, regarding:
 - (i) any requests to withdraw any securities or cash from the Accounts, and/or transfer money arising from a disposal of any securities, which would result in the value of assets remaining in the Accounts to fall below the **value of HK\$251,911,089**; and/or
 - (ii) any requests to dispose of or deal with any securities or cash which concern the assets subject to the prohibitions in (a) above.
2. Notwithstanding paragraph 1, the Specified Corporation may deal with or dispose of securities in the Accounts to cover any negative cash balance in the Accounts. The

cash and securities remaining in the Accounts following the disposal of securities shall remain in the Accounts and be subject to the prohibitions in paragraph 1 above.

3. Under section 217 of the SFO, an application may be made to the Securities and Futures Appeal Tribunal for a review of the Commission's decision to impose the prohibition and/or requirement by this Notice. Such application must be made within twenty-one days after the day on which this Notice is served on the Specified Corporation. Further, under section 208 of the SFO, the Specified Corporation may apply to the Commission for the prohibition and/or requirement imposed by this Notice to be withdrawn, substituted or varied.

This Notice takes effect at the time of service upon the Specified Corporation.

Dated this 23rd day of September 2019

For and on behalf of
Securities and Futures Commission

Ashley Alder
Chief Executive Officer

Statement of Reasons
Under section 209(2) of the Securities and Futures Ordinance (Cap. 571)
(SFO)

1. KGI Asia Limited (“**Specified Corporation**”) is a corporation licensed under the SFO to carry on Types 1 and 4 regulated activities.
2. It appears to the Securities and Futures Commission (“**Commission**”) that the imposition of the prohibitions and the requirements set out in the Notice of this date issued by the Commission under sections 204 and 205 of the SFO is desirable in the interest of the investing public and in the public interest.
3. The Commission has reached this view on the basis of the following matters:
 - (a) The beneficial owner of the assets in the securities trading accounts subject to the notice is suspected of breaching his duties towards a listed corporation (“**Listco**”).
 - (b) The beneficial owner and a company wholly owned by him, Company A, hold securities and cash in accounts maintained with the Specified Corporation (account numbers: 10001406979, 10001058602 and 10000444406) (“**Accounts**”). As at 30 June 2019, the estimated value of the securities and cash in the Accounts was HK\$32.4 million.
 - (c) The Commission will institute civil proceedings under section 214 of the SFO against six officers of the Listco including the beneficial owner (“**Proceedings**”) at the appropriate time. In due course, the Court of First Instance may order the beneficial owner to pay compensation to the Listco in the sum of HK\$251,911,089 (“**Order**”).
 - (d) There is a real risk that the beneficial owner may, upon realization of the Proceedings, dissipate or remove the assets, or a part thereof, from the Accounts, thus rendering the Order ineffective.
 - (e) The Commission believes that it is necessary to prevent the beneficial owner from operating and dealing with the Accounts and to preserve the assets in the Accounts up to HK\$251,911,089 from being dissipated, pending a conclusion of the Proceedings.
 - (f) As there is a potential risk of dissipation, the Commission considers it desirable in the interest of the investing public and in the public interest to impose on the Specified Corporation the prohibitions and the requirements set out in the Notice issued by the Commission on this date.

Dated this 23rd day of September 2019

For and on behalf of
Securities and Futures Commission

Ashley Alder
Chief Executive Officer