

## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Lo Wai Ming (**Lo**)<sup>1</sup>, former responsible officer (**RO**) of Taiping Securities (HK) Co Limited (**TSCL**), from re-entering the industry for seven months pursuant to section 194 of the Securities and Futures Ordinance.
2. The SFC found that between 2 January 2018 and 28 September 2018 (**Relevant Period**), Lo had breached TSCL's internal policies by:
  - (a) logging into two clients' internet trading accounts and placed orders for them without TSCL's knowledge; and
  - (b) failed to maintain proper records of the order instructions from the two clients.

### Summary of Facts

- A. *Placing orders for two clients via their internet trading accounts without TSCL's knowledge*
3. During the Relevant Period, Lo was an RO and the head of dealing of TSCL. He was also the account executive at TSCL responsible for handling two clients' accounts, namely Client 1 and Client 2 (collectively, **Clients**).
4. The SFC found that Lo had, unbeknownst to TSCL, logged into the respective internet trading accounts of the Clients and placed orders for them in accordance with their instructions (**Order Placing Arrangements**) for 72 trades (**Trades**). The Clients confirmed that they had provided Lo with their respective log in credentials and requested Lo to place the orders on their behalf either in person or by telephone before office hours.
5. Pursuant to TSCL's client order processing procedures applicable during the Relevant Period, staff members should input client orders into its broker supplied system for execution.
6. Lo explained that he did not follow TSCL's client order processing procedures but adopted the Order Placing Arrangements for the sake of the Clients' convenience and to reduce their commission expenses, as TSCL charged a lower commission fee for orders placed by clients via the internet.
7. Lo did not inform TSCL, and TSCL was not aware of the Order Placing Arrangements during the Relevant Period. Through the Order Placing Arrangements, the Trades in the Clients' accounts were effectively disguised as if they had been placed by the Clients themselves. Lo's conduct circumvented TSCL's internal policies and prevented it from properly monitoring the operation of the Clients' accounts.

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<sup>1</sup> Lo was accredited to TSCL and approved to act as its RO for Type 1 (dealing in securities) regulated activity between 25 June 2008 and 23 April 2019. He is currently not licensed by the SFC.

8. Based on the above, the SFC concludes that Lo has breached General Principle (**GP**) 2 (Diligence) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) which requires a licensed person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market.
- B. Failure to maintain proper records of clients' order instructions*
9. Paragraph 3.9 of the Code of Conduct provides that:
- (a) A licensed person should record and immediately time stamp records of the particulars of the instructions for agency orders.
  - (b) Where order instructions are received from clients through the telephone, a licensed person should use a telephone recording system to record the instructions and maintain telephone recordings as part of its records for at least 6 months.
  - (c) The use of mobile phones for receiving client order instructions is strongly discouraged. However, where orders are accepted by mobile phones, staff members should immediately call back to their licensed person's telephone recording system and record the time of receipt and order details. The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt should only be used if the licensed person's telephone recording system cannot be accessed.
10. TSCL's internal policies and procedures reflected the order recording provisions under paragraph 3.9 of the Code of Conduct and required its staff members to, immediately upon receipt of a client order, record the order details (including the order type, stock code, order quantity and order price) on the pre-numbered order ticket and time stamp the order ticket to record the time of receipt of the order. For client orders received via mobile phones or in person outside the office, TSCL required its staff members to (a) immediately call back to TSCL's telephone recording system to record the orders or, after returning to the office, record the time of receipt and other relevant details of the order on the order tickets; and (b) confirm the orders with the clients using TSCL's telephone recording system after execution of the orders.
11. Contrary to TSCL's internal policies, Lo did not immediately call back to TSCL's telephone recording system to record the Clients' order instructions<sup>2</sup> or fill in the pre-numbered order tickets for the Trades.
12. Lo asserted that he had recorded the Clients' order instructions in writing and / or with a recorder pen:

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<sup>2</sup> The SFC accepts that it might not have been feasible for Lo to contemporaneously record the Clients' order instructions with TSCL's telephone recording system as the instructions were received by him during non-office hours when TSCL's telephone recording system was not accessible. However, Lo was still required under TSCL's policies to fill in the pre-numbered order tickets with the order details upon his return to the office and to confirm the orders with the Clients using TSCL's telephone recording system after execution of such orders which he did not do so.

- (a) In response to the SFC's inquiry, Lo provided to TSCL 39 sets of trade records bearing Client 1's / Client 2's signatures for the 72 Trades (**Trade Records**).
  - (b) In respect of the recorder pen which Lo claimed to have used to record some of Client 1's order instructions, Lo said that the recorder pen had malfunctioned and was no longer kept by him, but he had copied the relevant voice recordings to a USB flash drive stored in TSCL's office.
13. The SFC's investigation found that Lo did not inform TSCL of the existence of the Trade Records or provide the same to it until the SFC inquired into the matter. TSCL also denied having received from Lo any recordings pertaining to the Trades other than the Trade Records mentioned above. In any event, TSCL did not approve of Lo's use of such means to record the Clients' order instructions.
14. Further, the Trade Records prepared by Lo were not in line with the order recording requirements under paragraph 3.9(a) of the Code of Conduct and failed to provide a full and accurate audit trail of the Clients' order instructions. For instance:
- (a) The Trade Records were not contemporaneously prepared and immediately time stamped. They were prepared by Lo and signed by the Clients after the execution of the respective Trades.
  - (b) The Trade Records only recorded the executed transactions but not those orders placed for Client 1 which were unexecuted and / or cancelled.
  - (c) Some of the Trades executed on the same date in relation to the same stock were recorded as one transaction (showing only the executed average price and total quantity) without documenting the order price and quantity for each individual transaction.
  - (d) In any event, the time of receipt of the orders were not documented in the Trade Records in respect of 14 Trades.
15. The SFC is of the view that Lo's failure to maintain a proper record of the Clients' order instructions constitute breaches of GP 2 and paragraph 3.9 of the Code of Conduct.

## **Conclusion**

16. Having considered all the circumstances, the SFC is of the opinion that Lo is guilty of misconduct and is not a fit and proper person to be or remain licensed.
17. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all of the circumstances, including the duration of Lo's misconduct and his otherwise clean disciplinary record.