

# SFC Suspends Cho Wing Yiu David for Breaches of Anti-Money Laundering Guidelines, the Securities and Futures (Financial Resources) Rules and Code of Conduct, and Internal Controls Failures

25 May 2006

The SFC has suspended Mr Cho Wing Yiu David for six months from 25 May to 24 November 2006 for breaching the Money Laundering: Revised Guidance Notes (Anti-Money Laundering Guidelines), the Securities and Futures (Financial Resources) Rules (FRR) and Code of Conduct and lack of internal controls while acting as a responsible officer for Hooray Securities Limited (Notes 1, 2 and 3).

## Breach of Anti-Money Laundering Guidelines

Between September and November 2001, Hooray Securities acted as the selling broker in a number of significant non-AMS transactions in the shares of:

- Karl Thomson Holdings Limited;
- Gold Wo International Holdings Limited;
- Eforce Holdings Limited;
- South Sea Holding Company Limited; and
- Fourseas.com Limited.

Following these transactions, a large portion of the sale proceeds of each company (ranging from \$39 million to \$81 million representing 33% to 60% of each company's sale proceeds) was transferred by the sellers to the accounts of five parties, including four BVI companies, for no discernible reason. The accounts of the four BVI companies with Hooray Securities were opened shortly before the transactions. The flow of funds could not be traced beyond the BVI companies because the funds were subsequently transferred out of Hong Kong.

These transfers were suspicious and were noted by Hooray Securities to be unusual. However, Cho failed to make any inquiries with the sellers into the reason for the transfers in order to fulfil the requirements of the Anti-Money Laundering Guidelines. Further, Cho did not ensure that Hooray Securities had internal policies or procedures in place to comply with the Guidelines nor had he appointed an officer to be responsible for disclosure by staff members of suspicions about a person, transaction or property.

## Breach of FRR

Hooray Securities failed to maintain the requisite liquid capital on a total of eight days between May 2003 and March 2004 as a result of mistakes in calculating its liquid capital returns. Cho, who was not knowledgeable in calculating FRR, nonetheless signed on the FRR return at month's end. Cho also failed to act responsibly by:

- hiring an inexperienced member of staff to calculate FRR computations;
- failing to ensure that member of staff was suitably trained and knowledgeable in FRR; and
- failing to adequately supervise that member of staff in FRR computation.

## Breach of Code of Conduct by employee

Between July and September 2004, a licensed representative of Hooray Securities breached the Code of Conduct as a result of the failures of Cho to:

- ensure tape recordings were maintained for at least three months;
- implement measures to check the handling of orders by account executives by listening to tape recordings and checking order placing records; and
- prevent discretionary trades from being conducted before receipt of proper written authorisations from clients.

### Lack of Internal Controls

Between 27 July 2002 and 20 August 2003, a former sales director of Hooray Securities opened seven accounts in the name of seven persons given by a third party who was not a client of Hooray Securities. Without any written authorisation, the third party gave orders to the director to conduct transactions in the accounts in the shares of New Chinese Medicine Holdings Limited. Of the 30 days when New Chinese Medicine was traded in August and September 2002, the third party placed buy/sell orders through the accounts at the same price on 11 days.

Cho failed to ensure that Hooray Securities had written guidelines or procedures requiring a written authorisation for orders placed by a third party on behalf of an account holder. Further, Cho failed to ensure that somebody at Hooray Securities checked the contents of the calls recorded by the tape recording system to ascertain whether orders had been properly executed.

The SFC concludes that Cho has been guilty of misconduct and his fitness and propriety has been called into question. In deciding the penalty, the SFC has taken into account all the circumstances of the case including the fact that:

- the degree of breach of the Anti-Money Laundering Guidelines was serious;
- Hooray Securities was warned twice by the SFC in March and November 2002 in relation to mistakes in FRR computation;
- the number of days on which the FRR was breached was substantial;
- Cho, who was unqualified to do the FRR computations, was nonetheless responsible for attesting the liquid capital accuracy; and
- there was a clear pattern of mismanagement and inadequate internal control procedures in Hooray Securities.

Mr Eugène Goyne, an SFC Senior Director of Enforcement, said: "The SFC takes a serious view of failures to implement adequate anti-money laundering measures. Through Cho's failings as a responsible officer, Hooray Securities did not have in place any anti-money laundering controls. Substantial amounts of money were transferred to BVI companies of unknown ownership. Cho had an obligation to query these suspicious transfers but failed to do so. All market participants are reminded that the failure to report suspicious transactions may also attract criminal liability under the Organised and Serious Crimes Ordinance and/or the Drug Trafficking (Recovery of Proceeds) Ordinance."

"As for the other breaches, the SFC reminds licensees that they should take necessary and appropriate steps to ensure compliance in all aspects of their business. Responsible officers who sign an FRR return will ultimately be held responsible for its accuracy. The combined effect of the misconduct and Hooray Securities' past record highlight some serious management failures within the company. As a responsible officer at the time, Cho bears full responsibility for all of Hooray Securities' failings. The level of suspension adequately reflects the relative gravity of Cho's misconduct," Mr Goyne added.

End

Notes:

1. Cho is licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) regulated activity. Cho is a representative accredited to Asia-Pac Securities Limited.
2. The relevant version of the Money Laundering: Revised Guidance Notes was issued by the Securities and Futures Commission in July 1997.
3. The relevant version of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission came into effect in April 2003.

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