

SFC suspends Ko Cho Ting for two years

3 Aug 2016

The Securities and Futures Commission (SFC) has suspended Mr Ko Cho Ting for two years from 2 August 2016 to 1 August 2018 for executing suspicious client orders and operating a secret securities account (Note 1).

The disciplinary action follows an SFC investigation which found that Ko placed suspicious bid orders for the shares of Timeless Software Limited (Timeless) for one of his clients. From 1 May to 28 June 2012, the client placed a small order for Timeless shares during the last two minutes of the Continuous Trading Session on 18 trading days and 17 of these late orders were the last order of the day that set a higher closing price for Timeless shares (Note 2).

Although Ko suspected that the late orders might inflate the closing price of Timeless shares and be considered to be manipulative, Ko acted in accordance with the client's instructions and made no proper inquiries or took no step to escalate the orders to the management of his firm.

The SFC investigation also reveals that Ko has breached his firm's employee dealing policy by failing to disclose a personal securities trading account and the securities transactions conducted therein.

By knowingly placing suspicious orders to the market for his client, Ko is not acting in the best interest of market integrity and his conduct fell short of the standard expected of him (Note 3).

End

Notes:

1. Ko was licensed as a representative under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and was accredited to Emperor Securities Limited since 6 October 1994.
2. The Continuous Trading Session comprises the Morning Session between 09:30am and 12:00 noon and the Afternoon Session between 01:00pm and 04:00pm. The last two minutes of the Continuous Trading Session refer to two minutes from 3:58:00pm.
3. General Principle 1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission requires licensed persons to act honestly, fairly and in the best interest of market integrity.

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

Page last updated : 3 Aug 2016

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended Mr Ko Cho Ting (**Ko**) for two years, pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken because Ko executed the Late Orders (defined in paragraph 4 below) notwithstanding his suspicion that they might be manipulative, and failed to disclose to his employer the existence of a personal securities trading account and the securities transactions conducted therein, in breach of his employer's staff dealing policies.

Summary of facts

3. At the material time, Ko was an account executive and a branch manager of Emperor Securities Limited (**Emperor**).

Late Orders

4. During its market surveillance, the SFC identified suspicious trading activities in the shares of Timeless Software Limited (**Timeless**). The SFC found that on 18 out of the 27 days from 1 May 2012 to 28 June 2012, a buy order for Timeless shares was placed in a client account at Emperor within the last two minutes of the Continuous Trading Session (**Late Orders**).
5. A review of each of the 18 Late Orders shows that:
 - (a) All Late Orders were small size bid orders (ranging from 2,000 to 30,000 shares) at prices higher than the previous nominal prices.
 - (b) 6 out of the 18 Late Orders were executed as their bid prices were at or above the prevailing best ask prices.
 - (c) 12 out of 18 Late Orders were not executed as their bid prices were one spread lower than the prevailing best ask prices.
6. The SFC found that each of the 18 Late Orders were placed by Ko according to a client's instructions. During an interview with the SFC, Ko admitted that, although he suspected that the Late Orders might inflate the closing price of Timeless and be considered to be manipulative, he acted in accordance with the client's instructions and made no proper inquiries or took no step to escalate the Late Orders to the management of Emperor.
7. According to an independent market expert, the Late Orders have raised the nominal price of the shares on all 18 trading days by 3 to 20 spreads (or 2.1% to 14.2%) at the time when they were input, and 17 out of 18 Late Orders were the last order of the day and set the closing price of the shares on the relevant trading days.

Secret Account

8. According to Emperor's staff dealing policy, employees are not allowed to open trading accounts with other brokers except with the management's approval. Also, Emperor's employees are required to file an annual declaration for disclosure of any personal/related/associate accounts either maintained in Emperor or outside brokers.
9. In breach of Emperor's staff dealing policy, Ko only disclosed to Emperor that he maintained a personal trading account at Emperor but he did not disclose that he also maintained a trading account at Hongkong and Shanghai Banking Corporation Limited (**HSBC Account**).
10. Ko informed the SFC that he knew that he should disclose his trading account maintained with outside brokers to Emperor but he did not know that a trading account maintained with banks should also be disclosed.
11. The SFC has looked into the trading in the HSBC Account and noted that Ko had dealt with Timeless shares in the HSBC Account during the relevant period but there is no evidence that Ko had traded Timeless shares based on the information obtained from his client.

Breaches and reasons for action

12. As a licensed person, Ko has a duty:
 - (a) under General Principle 1 of the Code of Conduct¹, to act honestly, fairly and in the best interest of the integrity of the market.
 - (b) under General Principle 2 of the Code of Conduct, to exercise due skill, care and diligence and to act in the best interest of the integrity of the market;
 - (c) under General Principle 6 of the Code of Conduct, to avoid conflicts of interest; and
 - (d) under paragraph 10.1 of the Code of Conduct, to disclose his material interest or actual/potential conflict of interest to the client and take all reasonable steps to ensure fair treatment of the client.
13. In this case, Ko has breached:
 - (a) General Principles 1 and 2 of the Code of Conduct by placing the Late Orders with a view to setting a higher closing price for Timeless shares for the client;
 - (b) General Principle 2 of the Code of Conduct by failing to disclose the HSBC Account to Emperor, in breach of the staff dealing policy implemented by Emperor pursuant to paragraph 12.2 of the Code of Conduct; and

¹ Code of Conduct for Persons Licensed by or Registered with the SFC

- (c) General Principle 6 and paragraphs 10.1 of the Code of Conduct, by dealing with Timeless shares during the relevant period and exposing himself to actual or potential conflict of interests with the client.

Conclusion

- 14. In deciding the disciplinary sanction, the SFC has taken into account all relevant circumstances, including that:
 - (a) Ko took steps to set an artificial high closing price for Timeless shares on 18 occasions during the Enquiry Period;
 - (b) market integrity is the key to an efficient and successful market and no one should take step to prejudice the interest of the market integrity;
 - (c) maintaining secret account is a dishonest act which could jeopardize the interests of Ko's client, employer and market integrity;
 - (d) Ko joined the industry in 1994 and have worked in the securities industry for 18 years at the time of misconduct, he should have been well aware that the Late Orders were potentially manipulative and that all of his personal trading account should be disclosed to Emperor;
 - (e) there is no evidence that Ko's personal trading activities in the HSBC Account in fact prejudiced the interest of his clients, Emperor or market integrity; and
 - (f) Ko has an otherwise clean disciplinary record and that he has expressed remorse for his conduct.

證監會暫時吊銷高初定的牌照兩年

2016年8月3日

高初定(男)因執行可疑客戶買盤及操作秘密證券帳戶,遭證券及期貨事務監察委員會(證監會)暫時吊銷牌照,為期兩年,由2016年8月2日起至2018年8月1日止(註1)。

證監會經調查後採取上述紀律處分行動。調查發現,高為其中一名客戶發出對天時軟件有限公司(天時)股份的可疑買盤。在2012年5月1日至6月28日期間,該客戶曾於18個交易日,在持續交易時段的最後兩分鐘內,發出對天時股份的小額買盤,而在這些遲掛的買盤當中,有17個是當天的最後一個買盤並為天時股份設定了較高的收市價(註2)。

高雖然懷疑遲掛的買盤可能會推高天時股份的收市價及會被視為具操縱性,但他仍按照客戶的指示行事,以及沒有作出恰當的查詢或採取步驟,將上述買盤上報公司管理層。

證監會的調查亦發現,高沒有披露個人證券交易帳戶及在該帳戶內進行的證券交易,違反了公司的職員交易政策。

高在知情的情況下為客戶向市場發出可疑買盤,不但沒有確保市場的廉潔穩健,而且他的行為並不符合他理應達到的標準(註3)。

完

備註:

1. 高根據《證券及期貨條例》獲發牌以代表身分進行第1類(證券交易)及第2類(期貨合約交易)受規管活動,並自1994年10月6日起隸屬英皇證券(香港)有限公司。
2. 持續交易時段包括由早上9:30至中午12:00的上午交易時段,以及由下午1:00至下午4:00的下午交易時段。持續交易時段的最後兩分鐘是指由下午3:58:00起的兩分鐘。
3. 《證券及期貨事務監察委員會持牌人或註冊人操守準則》第1項一般原則規定持牌人以誠實、公平的態 事及確保市場 潔穩健。

[有關紀律處分行動聲明載於證監會網站](#)

最後更新日期: 2016年8月3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 條暫時吊銷高初定先生（**高**）的牌照，為期兩年。
2. 證監會採取上述紀律處分行動，是因為高儘管懷疑遲掛的買盤（定義見下文第 4 段）可能屬操縱性質，但仍加以執行，以及未有向僱主披露個人證券交易帳戶及在該帳戶內進行的證券交易，違反了僱主的職員交易政策。

事實摘要

3. 在關鍵時間，高是英皇證券（香港）有限公司（**英皇**）的客戶主任及分行經理。

遲掛的買盤

4. 證監會在監察市場的行動中，識別出有關天時軟件有限公司（**天時**）股份的可疑交易活動。證監會發現，在 2012 年 5 月 1 日至 2012 年 6 月 28 日這 27 天期間，英皇的某個客戶帳戶有 18 天均曾在持續交易時段的最後兩分鐘內，發出對天時股份的買盤指令（**遲掛的買盤**）。
5. 對該 18 個遲掛的買盤逐一研究後，結果顯示：
 - (a) 所有遲掛的買盤均為價格高於之前的按盤價的小額買盤（介乎 2,000 至 30,000 股）。
 - (b) 該 18 個遲掛的買盤中有六個獲得執行，因為它們的買入價相等於或高於當時的最佳沽出價。
 - (c) 該 18 個遲掛的買盤中有 12 個不獲執行，因為它們的買入價較當時的最佳沽出價低一個價位。
6. 證監會發現，該 18 個遲掛的買盤均是高根據客戶的指示而發出的。高在與證監會會見時承認，雖然他懷疑遲掛的買盤可能會推高天時的收市價及會被視為具操縱性，但他仍按照客戶的指示行事，以及沒有作出恰當的查詢或採取步驟將遲掛的買盤一事上報英皇的管理層。
7. 一名獨立的市場專家指出，遲掛的買盤在輸入時令到股份按盤價在所有 18 個交易日均被推高 3 至 20 個價位（或 2.1%至 14.2%），而在 18 個遲掛的買盤當中，有 17 個是該日的最後一個買盤及為股份設定了在相關交易日的收市價。

秘密帳戶

8. 根據英皇的職員交易政策，僱員除非得到管理層的批准，否則不得在其他經紀行開立交易帳戶。此外，英皇的僱員須提交年度申報，就無論是在英皇或其他經紀行所開立的任何個人／相關／有聯繫帳戶作出披露。
9. 高只向英皇披露了他在英皇所開立的個人交易帳戶，但沒有披露他亦有在香港上海滙豐銀行有限公司開立交易帳戶（該滙豐帳戶），違反了英皇的職員交易政策。
10. 高向證監會表示，他知道應向英皇披露他在其他經紀行開立的交易帳戶，但不知道亦應披露在銀行開立的交易帳戶。
11. 證監會已就在該滙豐帳戶進行的交易展開調查，並注意到高在有關期間曾於該滙豐帳戶就天時股份進行交易，但並無證據顯示高是根據來自客戶的消息而就天時股份進行交易。

違反規定及採取行動的理由

12. 高身為持牌人，有責任：
 - (a) 根據《操守準則》¹第 1 項一般原則，以誠實、公平的態度行事及確保市場廉潔穩健；
 - (b) 根據《操守準則》第 2 項一般原則，以適當的技能，小心審慎和勤勉盡責的態度行事及確保市場廉潔穩健；
 - (c) 根據《操守準則》第 6 項一般原則，避免利益衝突；及
 - (d) 根據《操守準則》第 10.1 段，向客戶披露其重大利益或實際／潛在衝突，及採取一切合理步驟確保客戶獲得公平對待。
13. 在本個案中，高違反了：
 - (a) 《操守準則》第 1 項及第 2 項一般原則，原因是他為了替客戶就天時股份設定較高的收市價而發出遲掛的買盤；
 - (b) 《操守準則》第 2 項一般原則，原因是他沒有向英皇披露該滙豐帳戶，違反了英皇根據《操守準則》第 12.2 段而落實的職員交易政策；及
 - (c) 《操守準則》第 6 項一般原則及第 10.1 段，原因是他在有關期間就天時股份進行交易，並導致自己與客戶出現實際或潛在利益衝突。

結論

14. 證監會在釐定上述紀律處分時，已考慮到所有相關情況，包括：

¹ 《證監會持牌人或註冊人操守準則》

- (a) 高在查訊期間曾 18 次採取步驟，為天時股份設定人為的高收市價；
- (b) 市場的廉潔穩健是一個有效率及成功的市場的關鍵所在，所有人均不得採取行動損害市場的廉潔穩健；
- (c) 開立秘密帳戶屬不誠實的行為，可能危害高的客戶及僱主的利益，以及市場的廉潔穩健；
- (d) 高在 1994 年投身業界及在犯下失當行為時已從事證券業 18 年，理應清楚知道遲掛的買盤屬潛在操縱行為，以及他應向英皇披露他所有的個人交易帳戶；
- (e) 沒有證據顯示高在該滙豐帳戶內的個人交易活動，實際上損害了他的客戶及僱主的利益或市場的廉潔穩健；及
- (f) 高並無遭受紀律處分的紀錄，並對他的行為表示悔意。