

## STATEMENT OF DISCIPLINARY ACTION

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### The disciplinary action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded Mr Raymond Leung Tak Shing (**Leung**), a chief executive officer and director of Yardley Securities Limited (**YSL**), and fined him \$400,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**)<sup>1</sup>.

### Summary of facts

2. The SFC found that YSL failed to take all reasonable measures to ensure that proper safeguards exist to mitigate the risks of money laundering and terrorist financing between February and October 2016 (**Relevant Period**) as it failed to:
  - (a) conduct proper enquiries and sufficient scrutiny on a number of third party deposits/withdrawals in margin accounts belonging to two clients (**Third Party Fund Transfers**), which were unusual and/or suspicious and involved significant sums of monies, and/or failed to adequately record enquiries which were allegedly made on these transactions; and
  - (b) have adequate policies, procedures, controls and provide adequate training to its staff to ensure compliance with the regulatory requirements on anti-money laundering and counter-financing of terrorism (**AML/CFT**)<sup>2</sup>.
3. The SFC found that YSL's breaches as set out in paragraph 2 above were attributable to Leung's failures to discharge his duties as a member of YSL's senior management during the Relevant Period. Specifically:
  - (a) Leung was YSL's money laundering reporting officer (**MLRO**)<sup>3</sup> and was responsible for conducting risk assessment on clients, evaluating and approving all third party fund transfers to ensure that they were in compliance with the AML/CFT regulatory requirements. He was directly responsible for YSL's failure in paragraph 2(a) above:
    - (i) Leung did not conduct adequate enquiries and approved the Third Party Fund Transfers between February and May 2016 even though there were numerous indicators suggesting that these transfers appeared to be unusual and/or suspicious.
    - (ii) He also failed to maintain records of the enquiries which he allegedly made and only tried to retrospectively document his findings in writing in late October 2016, after an inspection by

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<sup>1</sup> Leung is not a licensed person, but comes within the definition of a "regulated person" under section 194(7) of the SFO which includes a person involved in the management of the business of a licensed corporation.

<sup>2</sup> See the SFC's press release dated [17 March 2021](#).

<sup>3</sup> Under paragraph 2.15 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (**AML Guideline**), an MLRO should play an active role in the identification and reporting of suspicious transactions, and should maintain records of the reviews conducted.

the SFC. Despite such attempt, the records of enquiries allegedly done remained absent.

- (b) Leung was YSL's compliance officer and was responsible for overseeing YSL's AML/CFT systems<sup>4</sup>. He was responsible for YSL's failure in paragraph 2(b) above:
  - (i) Leung failed to ensure that YSL had proper and adequate systems in place to mitigate the risks of money laundering and terrorist financing during the Relevant Period. It was only in October 2016 that YSL had written policies and procedures on AML/CFT. Furthermore, although YSL had procedures which required its clients to fill in forms for third party deposits and withdrawals, these forms only required YSL's clients to provide general information about the transfers. Such information would not enable YSL to understand the relationship between the clients and the third parties or the reasons for the transfers.
  - (ii) Leung failed to ensure that YSL's staff was aware of its AML/CFT policies and procedures, including those on suspicious transaction identification and reporting such transactions to the MLRO. In particular, YSL's staff member responsible for processing money deposits and withdrawals was not aware that YSL had an MLRO.
  - (iii) Leung failed to ensure that YSL's staff was provided with adequate AML/CFT training. He also failed to set appropriate standards for YSL's staff to follow, in that Leung himself also did not adhere to YSL's procedures that existed at the material time.

- 4. In light of the above failures, the SFC concluded that YSL's failures were attributable to Leung's neglect of his duties as YSL's senior management and should be regarded as misconduct on his part.
- 5. Further, Leung failed to ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by YSL, and properly manage the risks associated with YSL's business. Leung's failures were inconsistent with the standards expected of the senior management of a licensed corporation under General Principle 9 and paragraph 14.1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

## **Conclusion**

- 6. The SFC is of the view that Leung is guilty of misconduct and his fitness and properness as a regulated person is called into question.
- 7. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has had regard to its Disciplinary Fining Guidelines and has taken into account all relevant circumstances, including:

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<sup>4</sup> Under paragraph 2.13 of the AML Guideline, a compliance officer is required, among others, to ensure that the licensed corporation's AML/CFT systems meet regulatory requirements and monitor the effectiveness of such systems.

- (a) Leung adopted a lax attitude when handling a substantial amount of Third Party Fund Transfers in the clients' accounts; and
- (b) YSL's failures, which lasted for at least nine months, were attributable to Leung's failure to discharge his duties as a member of YSL's senior management.