

SFC Settles with Allianz Global Investors Hong Kong Limited over Allegations of Breaches of the Fund Manager Code of Conduct and the Code on Unit Trusts and Mutual Funds

4 Jul 2005

The SFC has settled with Allianz Global Investors Hong Kong Limited, formerly known as Allianz Dresdner Asset Management Hong Kong Limited (ADAM), over allegations of breaches of the Fund Manager Code of Conduct and the Code on Unit Trusts and Mutual Funds (Note 1).

ADAM acted as the administrator, investment adviser and Hong Kong representative of four SFC- authorised funds: Dresdner RCM Little Dragons Fund Limited (Little Dragons Fund), Dresdner RCM Oriental Income Fund Limited (Oriental Income Fund), Dresdner RCM Tiger Fund Limited (Tiger Fund), and Dresdner RCM New Tiger Selections Fund Limited Thailand Sub-Fund (Thailand Fund) (Note 2).

An inspection of ADAM conducted by the Intermediaries Supervision Department of the SFC in August 2004 revealed that the valuation time of the four funds had been changed to 6:00pm Hong Kong time since 2 May 2000 inadvertently without the approval of the board and informing the shareholders. The valuation time as stipulated in the offering documents of the funds was 5:00pm Hong Kong time. The offering documents were not updated to reflect the change in valuation time.

The SFC alleged that ADAM had breached:

- Paragraph 5.3 of the Fund Manager Code of Conduct (FMC)
- Paragraphs 6.1, 10.1 and 11.2 of the Code on Unit Trusts and Mutual Funds (UTC)

Without admission of liability, ADAM has agreed voluntarily to make ex-gratia payments of US\$10,000 to each of the Little Dragons Fund, Oriental Income Fund and Tiger Fund, and US\$60,000 to the Thailand Fund.

The SFC considers that the settlement is in the public interest and the interest of the investing public taking into account the following factors:

- The reason for the change in valuation time by ADAM was to obtain a net asset value of the funds based on the closing prices of all the markets in which the funds invested, such as Thailand and India;
- The failure to update the offering documents by ADAM was inadvertent;
- All investors subscribed and redeemed at the same unknown price for each dealing day and no one could have taken advantage of the change in valuation time from 5:00pm to 6:00pm;
- ADAM conducted an impact analysis based on the limited data available and confirmed that the price variance resulting from the change in valuation time of the funds was small;
- On 14 January 2005, ADAM issued a supplement to the consolidated prospectus of the affected funds and a notice to the shareholders to inform them of the change in valuation time;
- ADAM reported the incident to the Bermudan Monetary Authority (the funds are domiciled in Bermuda);
- ADAM fully co-operated with the SFC in its inquiries;
- ADAM did not receive any improper benefit from the matter; and
- ADAM engaged a firm of accountants to independently review its internal control procedures and undertook to implement any recommendations arising out of the review and to take any follow-up action.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "It is the obligation of fund managers to manage funds in accordance with the funds' offering or constitutive documents. Notifications to holders must be issued about changes or proposed changes to those documents. Failure by a fund manager to comply with the FMC or to ensure funds under its management comply with the UTC would reflect adversely on its fitness and properness and result in disciplinary action."

Mrs Alexa Lam, SFC's Executive Director of Intermediaries and Investment Products, said: "In making investment decisions regarding a collective investment scheme, investors rely on the information in the offering documents. Fund managers should therefore provide clear, accurate and up-to-date

disclosure about operational requirements in offering documents and strictly comply with these requirements. Fund managers must ensure that appropriate measures are in place to monitor on-going compliance with the offering documents. The SFC closely monitors this area."

Ends

Notes to Editor:

1. Allianz Global Investors Hong Kong Limited (AGIHK) is a corporation licensed to carry on business in Type 1 (dealing in securities), Type 4 (advising on securities), Type 5 (advising on futures contracts) and Type 9 (asset management) regulated activities.
2. AGIHK remains as the administrator, investment adviser and Hong Kong representative of the four funds after the change of its company name.

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