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# Appeals Tribunal Upholds SFC's Decision to Suspend Research Analyst Wong Wing Fai Eric for Frontrunning Research Reports

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The Securities and Futures Appeals Tribunal (SFAT) has upheld the SFC's decision to suspend the licence of a former research analyst in the SFC's first disciplinary action against an analyst for frontrunning his research reports (Note 1).

## Background

The SFC found that Mr Wong Wing Fai Eric, who was a research analyst at Dao Heng Securities Limited from June 2001 to early October 2002, dealt in securities which were the subjects of his research reports, within a short period before and after the publication of the reports.

Wong issued three separate research reports in August 2002 making "Buy" recommendations on the shares of Chongqing Iron & Steel Company Limited, Lerado Group (Holding) Company Limited and Global Green Tech Group Limited. He purchased the shares of these companies at lower prices a few days prior to the publication of his research reports and sold these shares when the share prices increased after publication of his research (Note 2). He conducted these transactions for his father's account at another brokerage firm where his girlfriend was a dealing director (Note 3).

Wong also failed to disclose to Dao Heng that he was operating his father's account at another brokerage firm, as he ought to have done. His conduct was in breach of Dao Heng's staff dealing policy that research staff could not deal in any security that was the subject of research within three weeks before and after the publication of the research.

By frontrunning his research reports, he put his and/or his father's interests above the interests of the investing public, in breach of the conflicts of interest provisions under the Code of Conduct for Persons Licensed by or Registered with the SFC.

The SFC concluded that Wong's conduct had seriously compromised his role and duty as a research analyst and might affect the independence and objectivity of his research reports. The SFC therefore decided to suspend his licence for 18 months.

Wong applied to the SFAT for a review of the SFC's decision.

## Review by the SFAT

The SFAT review hearing took place on 9 July 2004. The SFAT did not discern any merit in Wong's application for review, and dismissed the application at the conclusion of the hearing. As a result, the SFAT affirmed the SFC's decision to suspend Wong for 18 months.

The SFAT's Reasons for Determination were issued today. In dismissing Wong's application, the SFAT made the following comments about research analyst conflicts of interest:

"... in practice the analyst acts as the bridge between investor and listed company. Notwithstanding the manifest and much publicized excesses that occurred during the securities 'dot com' boom, many investors still consider analysts an important source of information, and couch their investment decisions accordingly. Clearly it is vital for the maintenance of investor confidence in a securities market that such analysts act with integrity when producing their reports, and an important check and balance in terms of the maintenance of such integrity, and the avoidance of conflicts of interest, lies in the temporal trading restrictions imposed upon analysts contemporaneous with publication of a research reports... It seems to us that the public interest demands firm action of this type on the part of the regulator."

The SFAT also emphasized the deterrent nature of the disciplinary proceedings:

"Disciplinary actions are punitive, and are intended to have a deterrent effect. *"Pour encourager les autres"* is not an inappropriate maxim for a regulator to espouse. Moreover, the point remains that in

principle mitigating factors have less resonance within domestic disciplinary regimes as compared with the influence of such factors within the criminal system."

The SFC welcomes the decision of the SFAT. An SFC spokesman said: "The public expect research analysts to have high standards of integrity. Research reports and articles written by research analysts have wide readership in Hong Kong, and it is important that the views expressed in these reports and articles are objective, independent, unbiased and accurately reflect the financial prospects of the target companies. They must not be tainted by an analyst's undisclosed personal interests or dealing in the stocks concerned. The integrity of the market is seriously prejudiced where securities analysts place their personal interests above the interests of the investing public, as Wong did in this case. His desire for him or his father to profit clearly conflicted with his duty to provide objective, independent and unbiased report to the investing public."

"The recent arrests of analysts who are suspected of having accepted bribes to write favourable reports have focussed the public's attention on analyst conflicts of interest. This is an important area on which the SFC will focus its enforcement resources. If analysts are found to have allowed their research reports to be affected by their personal interests, the SFC will take disciplinary action," the spokesman said.

A copy of the [SFAT's Reasons for Determination](#) is posted on the SFC's website.

Ends

Notes to Editor:

1. Wong left Dao Heng Securities Limited in October 2002 and joined Shun Loong Securities Company Limited as Head of Research. He left Shun Loong in April 2004 and his licence with the SFC lapsed by operation of law at the same time. Although the SFC no longer has disciplinary jurisdiction over Wong and so the suspension will have no formal effect, the SFC will consider the suspension decision and the grounds for it, should Wong ever reapply for a regulatory approval, e.g. a licence.
2. This conduct is commonly called "frontrunning".
3. Wong's girlfriend is no longer a person licensed with the SFC, and it does not have disciplinary jurisdiction over her.

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