

Court orders futures trader to compensate investors over \$13 million

14 Jan 2014

The Court of First Instance today ordered Mr Tsoi Bun, a futures trader and former licensed intermediary, to pay \$13,688,950 to around 500 investors affected by his manipulation of the calculated opening prices (COP) of index futures contracts in the futures market between 2007 and 2009 (Note 1).

Tsoi was convicted of five offences of price rigging on 30 January 2012 following a retrial, and admitted today to 49 further contraventions in proceedings brought by the Securities and Futures Commission (SFC) under section 213 of the Securities and Futures Ordinance.

The SFC alleged and Tsoi admitted that on 29 days between 14 February 2007 and 31 July 2009, he bought futures contracts at a lower final COP and sold futures contracts at a higher final COP than would otherwise have been determined as a result of artificial trades arranged by him.

Under today's orders made by the Honourable Mr Justice G Lam, Tsoi must restore around 500 counterparties to the position they were in before transacting with him by paying them a total of \$13,688,950 (the restoration amount). The counterparties are located both in Hong Kong and overseas.

The restoration amount is the difference between the COPs of the index futures contracts involved in the contraventions before Tsoi's artificial orders are taken into account and the COPs created as a result of his artificial orders at which the affected investors transacted with him.

The court appointed Mr James Wardell and Mr Jackson Ip of Baker Tilly Hong Kong Restructuring and Recovery Limited to administer the restoration amount which Tsoi is required to pay into court on or before 28 January 2014.

The SFC's Executive Director of Enforcement, Mr Mark Steward, said: "It is only by understanding the actual consequences of misconduct that victims can properly be vindicated. The SFC will continue to ensure price riggers are caught and made to account wherever possible."

The SFC prosecuted Tsoi for price rigging in 2009. He was acquitted by the Eastern Magistracy but a retrial in 2011 found him guilty of five offences. Tsoi was the first person to be prosecuted criminally by the SFC for market manipulation in Hong Kong futures market (Note 2).

End

Notes:

1. The COP is calculated during the Pre-Market Opening Period and serves as the market opening price for the corresponding product. A COP will be calculated only if the highest bid price of the limit orders entered into the Automated Trading System of the Exchange (HKATS) is greater than or equal to the lowest ask price of the limit orders. If more than one price satisfies this criterion, the COP will be calculated according to the established formula set forth in Rule 4.84 of Trading Procedures for Stock Index Futures and Stock Index Options Traded on HKATS. Before normal trading in the morning session begins, there is a 30-minute period between 9:15:00 and 9:44:59 allocated for the traders to place orders and for those orders to be matched in accordance with certain rules laid down by the Hong Kong Futures Exchange Limited. The 30-minute period is known as a Pre-Market Opening Period and it is divided into three sessions: (i) a Pre-Opening Session which runs from 09:15:00 to 09:40:59 (and from 14:00:00 to 14:25:59); (ii) a Pre-Open Allocation Session which runs from 09:41:00 to 09:42:59 (and from 14:26:00 to 14:27:59); and (iii) an Open Allocation Session which runs from 09:43:00 to 09:44:59 (and from 14:28:00 to 14:29:59).
2. Please see the SFC's press releases dated [1 September 2009](#), [20 January 2010](#), [1 February 2010](#), [5 October 2010](#), [13 June 2011](#) and [30 January 2012](#).

法庭頒令期貨交易者向投資者賠償逾1300萬元

2014年1月14日

原訟法庭今天頒令，期貨交易者及前持牌中介人蔡斌（男）須就其在2007年至2009年期間在期貨市場操縱指數期貨合約的擬定開市價格，向約500名受影響投資者支付13,688,950元（註1）。

蔡於2012年1月30日經重審後被判五項操控價格罪名成立，並於今天在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213條提起的法律程序中承認另外49項違法行為。

蔡承認證監會所指，他曾在2007年2月14日至2009年7月31日期間的其中29日，藉人為設定價位的方式進行交易，按較原應釐定的最後擬定開市價格為低的價格買入期貨合約，並按較原應釐定的最後擬定開市價格為高的價格沽出期貨合約。

林雲浩法官今天頒令，蔡必須向約500名來自香港及海外的交易對手支付合共13,688,950元（回復金額），使他們回復至與蔡進行交易之前的狀況。

回復金額為有關違法行為為涉及的指數期貨合約在計及蔡以人為的方式設定買賣盤價位前的擬定開市價格，及受影響投資者與蔡進行交易時、以人為設定買賣盤價位所營造的擬定開市價格之間的差額。

法庭委任天職香港重組及復資有限公司的詹華達（Mr James Wardell）先生及葉昌盛先生管理回復金額。蔡須於2014年1月28日或之前向法庭支付回復金額。

證監會法規執行部執行董事施衛民先生（Mr Mark Steward）表示：“只有了解失當行為的實際後果，才能妥善維護受害人的權益。在可行的情況下，證監會將繼續致力捉拿價格操控者，使他們承擔責任。”

證監會就蔡於2009年的價格操控行為對其提出檢控。東區裁判法院曾裁定蔡罪名不成立，但於2011年的重審裁定其五項罪名成立。蔡是首名因在香港期貨市場進行市場操縱而遭證監會提出刑事檢控的人士（註2）。

完

備註：

1. 擬定開市價格是在開市前議價時段中計算出來，用作相應產品的開市價格。每當輸入電子交易系統（HKATS）的限價盤的最高買入價高於或相等於限價盤的最低賣出價，擬定開市價格便可計算出來。若有超過一個價格符合上述條件，擬定開市價格將會按《香港期貨交易所之規則、規例及程序》中有關在HKATS買賣股票指數期貨及期權的交易程序第4.84條的準則來計算。在上午的正常交易時段開始前，由9:15:00至9:44:59設有一段30分鐘的時間可供落盤，以根據香港期貨交易所有限公司的若干規則為這些買賣盤進行配對。這段30分鐘的時間稱為開市前時段，並分為三節：(i)開市前時段（由09:15:00至09:40:59及由14:00:00至14:25:59）；(ii)開市前分配時段（由09:41:00至09:42:59及由14:26:00至14:27:59）；及(iii)開市分配時段（由09:43:00至09:44:59及由14:28:00至14:29:59）。
2. 詳情請參閱證監會在2009年9月1日、2010年1月20日、2010年2月1日、2010年10月5日、2011年6月13日及2012年1月30日發出的新聞稿。

最後更新日期：2014年1月14日