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## SFC reprimands and fines Lau Ki Fung \$80,000

12 Jun 2018

The Securities and Futures Commission (SFC) has reprimanded Mr Lau Ki Fung, a former account executive of KGI Asia Limited (KGI), and fined him \$80,000 for failing to keep proper records of order instructions from clients (Notes 1 & 2).

The SFC found that between 29 July 2015 and 10 August 2015, Lau received 156 order instructions from four clients on mobile phone or during meetings outside KGI's office and failed to use a telephone recording system to record these order instructions as required by the Code of Conduct and KGI's internal requirements (Note 3).

In deciding the disciplinary action against Lau, the SFC took into account all relevant circumstances, including Lau's remorse and acceptance of his failure, as well as his otherwise clean disciplinary record.

End

Notes:

1. Lau was licensed 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 KGI Asia Limited and KGI Futures (Hong Kong) Limited between 31 January 2013 and 21 September 2016. Lau is currently accredited to Caitong International Securities Co., Limited to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities.
2. Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct).
3. Paragraph 3.9 of the Code of Conduct requires a licensed person to use a telephone recording system to record order instructions which are received from clients through the telephone. The use of mobile phones for receiving client order instructions is strongly discouraged. However, where orders are accepted by mobile phones, staff members should immediately call back to their licensed person's telephone recording system and record the time of receipt and the order details. The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt should only be used if the licensed person's telephone recording system cannot be accessed.

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

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## STATEMENT OF DISCIPLINARY ACTION

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### The disciplinary action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded Mr Lau Ki Fung (**Lau**)<sup>1</sup>, a former account executive of KGI Asia Limited (**KGI**), and fined him \$80,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that Lau failed to properly record order instructions received from four clients (**Clients**) during meetings out of KGI's office or on his mobile phone, in breach of General Principle 2 and paragraph 3.9 of the Code of Conduct<sup>2</sup>.

### Summary of facts

3. Lau was an account executive (**AE**) of KGI between 31 January 2013 and 21 September 2016.
4. Information provided by KGI to the SFC revealed that between 29 July 2015 and 10 August 2015, Lau executed 156 orders for derivative warrants received from the Clients (**Orders**) and he only prepared written records for nine of the Orders. There were no written records for the remaining orders and Lau also did not call back to KGI's telephone recording system to record the time of receipt and the details of the Orders in accordance with KGI's internal requirements.
5. According to Lau, he received the Orders from the Clients through face-to-face meetings or by mobile phone. He claimed that working as an AE was a sideline and he had other jobs, and he sometimes forgot to record orders on KGI's telephone recording system when he was busy.
6. Lau admitted that he did not read in detail KGI's Sales Manual which set out the order recording requirements and he had no recollection of KGI's email reminders on the order recording requirements because he seldom went back to KGI's office and checked his KGI email account.

### Breaches and reasons for action

7. General Principle 2 of the Code of Conduct requires a licensed person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market in conducting its business activities.
8. Paragraph 3.9 of the Code of Conduct requires a licensed person to use a telephone recording system to record order instructions which are received from clients through the telephone. The use of mobile phones for receiving client order instructions is strongly discouraged. However, where orders are

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<sup>1</sup> Lau was licensed under the SFO to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and was accredited to KGI Asia Limited and KGI Futures (Hong Kong) Limited between 31 January 2013 and 21 September 2016. Lau is currently accredited to Caitong International Securities Co., Limited to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities.

<sup>2</sup> Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

accepted by mobile phones, staff members should immediately call back to their licensed person's telephone recording system and record the time of receipt and the order details. The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt should only be used if the licensed person's telephone recording system cannot be accessed.

9. KGI's internal procedures reflect the order recording provisions under paragraph 3.9 of the Code of Conduct and require its AEs to ensure that all orders taken were evidenced by recorded conversations or written instructions of clients, and where orders were received from clients out of the office, they should immediately call back to its telephone recording system to record the time of receipt and the order details.
10. The SFC considers that Lau has failed to maintain telephone and/or written records in respect of the Orders placed with him by the Clients through face-to-face meetings or by mobile phone, in breach of paragraph 3.9 of the Code of Conduct and the internal policies of KGI.
11. Keeping proper records of client orders protects the interests of both intermediaries and clients. Lau's failure to comply with KGI's internal policies on the maintenance of proper records of clients' instructions has called into question his ability to act with due skill, care and diligence, and in the best interests of his clients under General Principle 2 of the Code of Conduct.

## **Conclusion**

12. The SFC is of the view that Lau's fitness and properness to be a licensed person has been called into question.
13. In reaching the decision to take disciplinary action against Lau for the matters set out in paragraph 2, the SFC has taken into account all relevant circumstances, including that:
  - (a) Lau had approximately 13 years of experience in the industry at the material time and should have been aware of the fundamental duty to keep proper records of clients' orders;
  - (b) he failed to record a large number of client orders within a short period of time (nine trading days);
  - (c) he accepted his failure and is remorseful; and
  - (d) he has an otherwise clean disciplinary record.