



Client Alert – SFC reprimands and fines BOCOM International Securities HK\$19.6 million for internal control failures (April 2020)

On 20 April, the SFC announced that following its investigation it has reprimanded and fined BOCOM International Securities Limited (“BISL”) HK\$19.6 million for regulatory breaches over several years including failures concerning the handling of third-party fund deposits, and the maintenance and implementation of a margin lending and margin call policy.

The SFC has set a clear message that it will not hesitate in taking action against licensed corporations that have failed to put in place appropriate internal controls that protect their operations and clients. In this alert we outline the breaches identified during the SFC investigation.

Third Party Deposits

BISL failed to put in place adequate and effective internal controls to identify third-party deposits made into client accounts. On numerous occasions BISL were either slow or failed to identify such deposits dating back to 2009. As a result, BISL were in breach of the Guidelines on Anti-Money Laundering and Counter-Terrorist Financing, various provisions in the Internal Controls Guidelines, and the Code of Conduct relating to having in place adequate and effective controls on the matter.

If your firm receives third party deposits it is important that you remain vigilant when monitoring customer activities and make adequate enquiries about funds from third party sources.

Margin Lending and Margin Control Policy

A wide range of deficiencies were identified by the SFC during its review of BISL’s margin lending and margin control policies from December 2012 until November 2016. BISL failed to clearly document and enforce a clear margin lending and margin call policy, maintain sufficient records regarding deviations from such policies, communicate margin calls to clients, collect margins due from clients, maintain records of margin calls, objectively set / enforce credit limits for margin clients and enforce segregation of the key duties and functions when applying and approving liquidation suspensions and making margin calls.

If you are conducting margin lending activities, you should ensure that your policy includes the following objectives as outlined in the Code of Conduct for Persons Licensed by and Registered with the SFC (“Code of Conduct”):

- a) Provide a basis for protecting the capital of the licensed person;
- b) Ensure adequate procedures are in place for identification of risks, effective monitoring and corrective action; and
- c) Ensure there is a consistent risk management policy.

Client Account Failures

The SFC identified numerous failures in BISL client accounts. BISL failed to ensure:

- Proper authorisation of transactions carried out in client accounts;
- It could reasonably identify the person ultimately responsible for originating the instruction regarding a transaction and the order instructions were not recorded correctly;
- The identities and transaction details of clients were confirmed in trade confirmations;
- Adequate and prompt handling of a client complaint.



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The code of conduct makes it clear that a licensed corporation should not affect a transaction for a client unless prior to conducting the transaction the client, or a person designated in writing by the client, has authorised the transaction or the client has authorised in writing a standing authority allowing the licensed corporation or its representatives to affect a transaction.

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