



## Regulatory Update – Licensed Representative Banned for 12 months for Personal Account Dealing Breaches (October 2020)

On 29 October 2020, the Securities and Futures Commission (“SFC”) announced that it had suspended the Type 1 (Dealing in Securities) license of Ms. Sandra Cheung Wing Yi (Ms. Cheung) for 12 months following her failure to notify her principal, Mason Securities Limited (“MSL”), of her personal external brokerage account and her related trading activities.

### Findings

During its investigation the SFC identified that from November 2014 to July 2017, Ms. Cheung conducted 66 personal trades from her undeclared external brokerage account without notifying MSL or seeking the required preapprovals to place such trades. Ms. Cheung was also found to have provided false and misleading declarations on numerous occasions where she declared to MSL that she did not have any external brokerage accounts with other licensed corporations.

The SFC found that Ms. Cheung opened an external brokerage account on 19 July 2013 and failed to disclose this account when she joined MSL in November 2014 and continued to withhold such information until her interview with the SFC in July 2017. It was only during her interview with the SFC that Ms. Cheung admitted that she has the undeclared account and claimed that she did not want to request for consent or approval for her personal trades or provide monthly statements of her account to MSL as she “could not be bothered to do so”.

MSL’s Employee Dealing Policy requires all employees to complete and sign the annual declaration form to declare any external brokerage accounts on the first day of reporting for duty and again each January to confirm that they understand and will comply with the employee dealing policy. In addition, the Employee Dealing Policy requires all employees to obtain written approval from management for maintaining and trading through such securities trading account and to provide duplicate monthly statements to ensure no breaches of the policy occur. Ms Cheung confirmed her adherence to the Employee Dealing Policy on several occasions.

Ms. Cheung’s actions were in direct breach of the requirements under paragraph 12.2 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) and the Employee Dealing Policy of MSL and therefore called into question her fitness and properness to be licensed by the SFC.

### Conclusion

The fact that Ms. Cheung circumvented and purposely evaded MSL’s monitoring of her personal trading activities were taken into consideration when handing out her 12-month ban. The SFC were of the view that Ms. Cheung is not a fit and proper person to be licensed and her conduct casts doubt on her overall character and integrity to carry on regulated activities honestly.

If it were not for Ms. Cheung’s clean disciplinary record and the fact that there was no evidence that her personal trading activities prejudiced the interests of MSL, her former clients at MSL or the integrity of the market the SFC would have banned her for a significantly longer duration to send a clear message to the market that the SFC does not tolerate such dishonest and clearly deliberate breach of internal control policies by a licensed person.



## How we can help

As an SFC Licensed Corporation you have a number of obligations to the regulator to fulfil on an ongoing basis. These obligations include monitoring the personal account dealing of your licensed employees. Often this can be an onerous task that involves a lot of chasing, dotting of i's and crossing of t's. Our ongoing compliance support team can provide guidance and/or support to ensure your employees trading activities are compliant with your internal controls and with the regulations. With monthly compliance meetings and personal account dealing monitoring, our specialists can assist you in protecting not only your employees but also the integrity of your firm. In some instances, the volume of employee personal account dealing can be sufficiently high to warrant automated solutions, and at ComplianceAsia we can assist you with our Hong Kong customised personal share dealing software.

ComplianceAsia's dedicated projects team can provide a detailed gap analysis of your internal personal account dealing controls to ensure that they are compliant with all regulatory and industry best practice standards. During our gap analysis process we will examine your existing personal account dealing policies and procedures, monitoring systems, and undertake an operational review of the compliance integrity of the business processes in place.

## About ComplianceAsia

ComplianceAsia is the longest established compliance consulting firm in Asia Pacific established in 2003 with key offices in Hong Kong, Shanghai, Singapore, Tokyo and London. We have an unmatched track record of completing complex compliance consulting projects for financial firms in the APAC region.

With over 70 staff, including compliance experts with experience in dealing with the SFC, HKMA, MAS, CSRC, JFSA and Asian exchanges, we provide independent, unbiased advice on Asian financial industry legislation and regulations. Our international client base consists of asset managers, hedge funds, private equity funds, family offices, broker-dealers, insurers, wealth managers and investment banks.

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