

REGULATORY NEWSLETTER

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Enforcement News

Licence applicant convicted of providing false information to SFC
11 May 2018

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR48>

The Eastern Magistrates' Court convicted Mr Lui Ho Yeung after he pleaded guilty to 2 counts of making false or misleading representations in support of his licence applications to the SFC.

He failed to disclose his previous criminal conviction in his SFC licence applications in 2009 and 2015 respectively. He was fined \$12,000 and had to pay for the SFC's investigation costs.

SFC commences MMT proceedings against Magic Holdings International Limited and its directors for late disclosure of inside information
15 May 2018

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR49>

The SFC has commenced proceedings in the Market Misconduct Tribunal (MMT) against Magic Holdings International Limited (Magic) and its directors for failing to disclose inside information as soon as reasonably practicable on the potential acquisition of its issued shares by L'Oréal S.A. (L'Oréal).



Circular Updates

Receiving client orders through instant messaging (IM)

4 May 2018

<http://www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=18EC30>

This circular provides guidance on the key controls and procedures which intermediaries are expected to put in place when using IM applications to receive client orders.

Intermediaries which allow the use of IM applications to receive client orders should implement appropriate measures which cover the following areas.

Centralized Record Keeping

- Order messages and the IM accounts and devices for storing and processing them should be properly maintained and centrally managed
- Appropriate arrangements and sufficient capacity to store and back up order messages in a form which could not be inappropriately modified or erased
- All order messages should be fully recorded and properly maintained for a period of not less than 2 years

The SFC found that Magic and L'Oréal had discussions related to L'Oréal's proposal to acquire the shares of Magic on several occasions since March 2013. During a meeting on 29 March 2013, Mr Stephen Tang Siu Kun, Mr She Yu Yuan, Mr Luo Yao Wen and L'Oréal's representatives reached a preliminary agreement regarding the sale of all the issued shares of Magic. On 15 August 2013, Magic announced that L'Oréal had put forward a proposal of acquiring all the issued shares of Magic and upon the acquisition becoming effective, all the shares of Magic would be cancelled in exchange for \$6.3 in cash for each share. After the announcement, the share price of Magic rose 19 per cent to \$6.01 on 16 August 2013.

The SFC alleges that Magic had failed to comply with the requirement under the statutory corporate disclosure regime by not disclosing inside information relating to the potential acquisition by L'Oréal until August 2013 despite having reached a preliminary agreement on the structure of the potential acquisition on 29 March 2013.

The SFC further alleges that the conduct of Tang, She, Luo and Mr Cheng Wing Hong had led to Magic's alleged breach of the disclosure requirement and that all 9 directors of Magic at the material time had failed to take all reasonable measures to ensure that proper safeguards exist to prevent the alleged breach of the disclosure requirement by Magic.

Security and Reliability

- Clients' identities should be properly authenticated and validated. Direct confirmation should be obtained by calling clients at their registered phone numbers in case of doubt or with a written acknowledgement.
- Keep abreast of threat intelligence and fraud trends on IM applications and prevent unauthorised access or security attack with adequate and appropriate security safeguards and the highest level of security available
- Client instructions received through IM applications for fund transfers to a 3rd party account should only be approved on an exceptional basis after authentication of clients' identities
- Establish a written contingency plan, which is appropriately tested, regularly updated and communicated to clients

Compliance Monitoring

- All order messages should be readily accessible and appropriate equipment and facilities should be available for compliance monitoring and audit purposes
- Perform regular compliance reviews to compare order messages against their clients' account activities to detect irregularities and potential malpractice
- Ensure proper monitoring of unusual or questionable transactions and verify them with clients where appropriate

Internal Policies and Procedures

- Put in place written policies and procedures for the use of IM applications and clearly communicated to staff, as well as monitoring procedures to ensure that client orders are executed promptly
- Staff members should be prohibited from making, sending or receiving electronic communications
- Provide appropriate and adequate training to staff

Client Awareness

- Take appropriate steps to raise the security awareness of their clients and ensure that they fully understand all the potential security risks before allowing them to use IM applications to place orders
- The terms and conditions for using IM applications to place orders should be fully communicated and agreed with clients

More details are available in the [Appendix](#).