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# REGULATORY NEWSLETTER

2023 Vol.5



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Welcome to the fifth edition of our Regulatory Newsletter, in which we look back over the last month at key developments affecting the financial industry and risks professionals face, summarizing regulatory updates that have happened in Hong Kong.

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## REGULATORY UPDATES

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### **Circular to Licensed Corporations which are Participants of The Stock Exchange of Hong Kong Limited or Hong Kong Futures Exchange Limited**

#### **- Licence Holders Insurance Scheme for Exchange Participants**

28 April 2023

This circular sets out the arrangements of the licence holders insurance scheme applicable to participants of The Stock Exchange of Hong Kong Limited and licensed for Type 1 regulated activity (i.e. dealing in securities), and participants of Hong Kong Futures Exchange Limited and licensed for Type 2 regulated activity (i.e. dealing in futures contracts) for the scheme year from 1 April 2023 to 31 March 2024.

#### **The insurance requirements**

Under the Securities and Futures Ordinance, corporations that are licensed to carry on certain regulated activities are required, as a condition of their licences, to take out and maintain insurance in the manner prescribed by the Securities and Futures (Insurance) Rules (Rules).

The Rules provide, amongst other things, that the licensed corporations in the above categories must take out and maintain insurance in relation to specified risks, for not less than an amount specified in the Rules, when the SFC has approved a master policy of insurance applicable to them.

#### **Arrangement of the scheme and approval of master policies of insurance**

In order to arrange for an appropriate insurance scheme for the purposes of the Rules, an Industry Working Group (IWG) comprising representatives of various brokers' associations and brokerage

houses was formed<sup>1</sup>. It operates with secretariat support from the SFC.

IWG members unanimously decided to re-appoint Marsh (Hong Kong) Limited (Marsh) as the insurance broker and scheme administrator for the scheme year 2023/2024. Marsh has already arranged the placements of two master policies of insurance covering respectively the licensed corporations in Category 1 and those in Category 2. The master policies of insurance are co-underwritten by Antares Syndicate 1274 (Lloyd's of London) (25%), Markel Syndicate 3000 (Lloyd's of London) (12.5%), Mosaic Syndicate 1609 (Lloyd's of London) (15%), Faraday Syndicate 0435 (Lloyd's of London) (15%), Casper Specialty UK Limited (10%), QBE FINPRO FI [Sec A] Facility 100% QBE Syndicate 5555(7.5%) and Allied World Assurance Company Limited (15%).

Under each master policy of insurance, an insured participant will be indemnified for financial losses due to fidelity risks relating to its activities of dealing in securities, futures contracts or both (as the case may be), subject to an indemnity limit of \$15 million per regulated activity per year and a deductible amount of \$3 million per claim or loss. For details of the risk coverage, indemnity level, deductible amount and other terms and conditions, please refer to the insurance documents to be distributed to you separately by Marsh.

Meanwhile, the SFC will provide Marsh with the information necessary for the arrangement of the master policies of insurance to be approved pursuant to the Rules for the scheme year 2023/2024. Such information will include the names of the participants covered under the policies, their correspondence details and information required by Marsh to allocate the gross premium among the participants based on the methodology agreed by the IWG.

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## ENFORCEMENT NEWS

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### **SFC reprimands and fines Ninety One Hong Kong Limited \$1.4 million for unlicensed futures trading**

**12 April 2023**

The SFC reprimanded and fined Ninety One Hong Kong Limited (NOHK) \$1.4 million for dealing in futures contracts without the required licence.

The SFC found that between April 2014 and January 2020, NOHK executed 4,864 trades in futures contracts for portfolios managed by its three overseas affiliates without the required licence, in breach of the SFO and the Code of Conduct (Notes 2 & 3).

In deciding the sanction, the SFC took into account that:

- there is no evidence to suggest that NOHK's failure was intentional or deliberate;
- there is no evidence of any client loss as a result of NOHK's futures trading activities;

### **SFC seeks court orders to disqualify former directors and ex-chief financial controller of China Candy Holdings Limited**

**20 April 2023**

The SFC commenced legal proceedings in the Court of First Instance (CFI) to seek disqualification orders against seven former members of the board of directors of China Candy Holdings Limited (China Candy) and the company's former chief financial controller.

The eight respondents named in the SFC's legal proceedings under section 214 of the Securities and Futures Ordinance (SFO) are: Mr. Xu Jinpei, former chairman and executive director; Ms. Hong Yinzhi, former chief executive officer and executive director; Ms. Li Yuna and Ms. Yvonne Hung, former executive directors; Mr. Nicholas Chiu Sai Chuen, Mr. Fangus Chu Wai Wa and Mr. Ong King Keung, former independent non-executive directors; and Mr. Wang Zhihong, former chief financial controller.

- NOHK reported the incident to the SFC shortly after identifying the suspected breach and ceased its futures trading activities thereafter;
- NOHK cooperated with the SFC in resolving the SFC's concerns; and
- NOHK has an otherwise clean disciplinary record.

The SFC is of the view that CGMAL's breaches and failings were attributable to Shaw's failure to discharge his duties as an RO and a member of CGMAL's senior management.

The SFC's legal action follows an investigation which found that China Candy's 2016 interim report and 2016 annual report had falsely and misleadingly portrayed the company's financial strength by overstating the cash and bank balances by 87% and 97% as of 30 June 2016 and 31 December 2016 respectively. To this end, falsified bank and accounting records were created to cover up the overstatement of the company's cash and bank balances (Fraudulent Scheme).

The SFC alleges that Xu, Hong and Wang were, at the material time, the instigators and perpetrators of, or at least knowingly permitted, acquiesced or turned a blind eye to the Fraudulent Scheme. As for the remaining former executive and independent non-executive directors, the SFC alleged that they were negligent and/or in breach of their duties owed to China Candy including, inter alia, duties of care, skill and diligence and duties to act in the best interest of the company.

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### **SFC issues restriction notices to 10 brokers to freeze client accounts linked to a suspected social media ramp-and-dump scam**

**25 April 2023**

The SFC issued restriction notices to 10 brokers, prohibiting them from dealing with or processing certain assets held in 31 trading accounts which are related to a suspected social media ramp-and-dump scam involving the shares of a company listed on The Stock Exchange of Hong Kong Limited between November 2021 and June 2022.

The 10 brokers are: China Industrial Securities International Brokerage Limited, Quam Securities Limited, Futu Securities International (Hong Kong) Limited, Imperium International Securities Limited, Lego Securities Limited, Phillip Securities (Hong Kong) Limited, Silverbricks Securities Company Limited, uSmart Securities Limited, Valuable Capital Limited and Webull Securities

### **SFC bans Peter Law Chi Kin for 10 years and fines him \$535,500**

**26 April 2023**

The SFC banned Mr Peter Law Chi Kin, former licensed representative of Convoy Asset Management Limited (CAML), from re-entering the industry for 10 years for taking part in a stock manipulation scheme and fined him \$535,500, equivalent to the profit he gained from the scheme.

Law was persuaded by his colleague Mr Wong Kwun Shing to join the stock manipulation scheme. He went on to solicit and arrange for 10 of his clients and friends to buy the shares of a company listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited from the manipulators involved in the scheme. His clients agreed to hold onto the shares for one to three months during which the manipulators

Limited.

The restriction notices prohibit the 10 brokers, without the SFC's prior written consent, from disposing of or dealing with, or assisting, counselling or procuring another person to dispose of or deal with, any assets in any way in the trading accounts up to a certain amount, including: (i) entering into transactions in respect of any securities; (ii) processing any withdrawals or transfers of securities and/or cash on the instructions of any authorized person of the accounts or by any person acting on their behalf; (iii) disposing of or dealing with any securities and/or cash on the instructions of any authorized person of the accounts or by any person acting on their behalf; and/or (iv) assisting another person to dispose of any relevant property or deal with any relevant property in a specified manner. The brokers are also required to notify the SFC if they receive any of these instructions.

The SFC considers that the issue of the restriction notices is desirable in the interest of the investing public or in the public interest.

The SFC's investigation is continuing.

would purportedly push up the share price. They also agreed to sell them only with his permission in return for cash rebates of 12% to 15% of the transaction value. However, his clients ended up suffering substantial losses because they were not allowed to offload their shares before the share price of Company A collapsed.

Law also coordinated with Wong to arrange the transactions through which his clients bought the shares from the manipulators. On each occasion, Wong would confirm the date, time, size and price with the manipulators in advance and inform Law of the same. Law would then give detailed instructions to his clients to ensure that their bid orders would match the manipulators' ask orders. After the transaction was completed, Wong would collect the cash rebates from the manipulators and pay Law for onward distribution to his clients.

Law's conduct fell far short of the standards set out in the Code of Conduct for Persons Licensed by or Registered with the SFC, and casts serious doubts on his character, reliability and ability to carry on regulated activities competently, honestly and fairly. The SFC considers that he is not fit and proper to be a licensed person.

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