

## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended Chung Tung Sau (**Chung**)<sup>1</sup> for seven months from 15 December 2022 to 14 July 2023 and fined him \$60,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that, between 1 and 11 August 2017 (**Relevant Period**), Chung failed to avoid conflicts of interest by trading in the shares of a listed company (**Company A**) while at the same time executing a client's good-till-cancel buy order for the same shares. This resulted in a profit to Chung of approximately \$60,000.

### Summary of facts

3. Between 10 December 2004 and 31 August 2017, Chung was an account executive at Quam Securities Company Limited (**Quam**) (now known as China Tonghai Securities Limited).
4. On 1 August 2017, a client placed a good-till-cancel order with Chung to purchase five million shares of Company A at or below \$3.50 (**GTC Order**). At or around the same time, Chung disclosed to the client his intention to conduct personal trades in Company A shares while executing the GTC Order<sup>2</sup>.
5. Chung fulfilled the GTC Order by buying Company A shares in the market during the Relevant Period, while trading in Company A shares for himself at the same time.
6. The SFC's investigation found that during the Relevant Period:
  - (a) Chung placed 11 buy orders for Company A shares in his personal account ahead of the buy orders for the GTC Order and Chung's personal buy orders were executed at prices below the upper limit of the GTC Order;
  - (b) shortly thereafter, Chung placed 10 sell orders for Company A shares in his personal account at or around the upper price limit of the GTC Order and, almost simultaneously, buy orders for the GTC Order, resulting in matched transactions between Chung and his client (**Relevant Transactions**); and
  - (c) Chung earned a profit of approximately \$60,000 from the Relevant Transactions.

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<sup>1</sup> Chung is licensed to carry on Type 1 (dealing in securities) regulated activity. At the relevant time, Chung was accredited to Quam Securities Company Limited (now known as China Tonghai Securities Limited) to carry on Type 1 (dealing in securities) regulated activity between 1 April 2003 and 31 August 2017.

<sup>2</sup> Chung also traded in Company A shares before receiving his client's instructions and after the GTC Order was fully executed.

## Breaches

7. As a licensed person, Chung was required to comply with the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**):
  - (a) General Principle 2 (Diligence) requires a licensed person to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market.
  - (b) General Principle 6 (Conflicts of interest) requires a licensed person to try to avoid conflicts of interest, and when they cannot be avoided, should ensure that his clients are fairly treated.
  - (c) Paragraph 3.2 (Best execution) requires a licensed person to execute client orders on the best available terms.
  - (d) Paragraph 9.1 (Priority for client orders: order handling and recording) requires orders of clients be given priority over orders for the account of the licensed person.
8. As an account executive of Quam, Chung was also required to comply with Quam's staff dealing policy which:
  - (a) prohibited cross-trades between staff accounts and client accounts were prohibited; and
  - (b) provided that no staff could enter into any transaction if they knew or should reasonably have known that the transaction would likely be detrimental to or have an adverse effect on the interest of a client of Quam.
9. The SFC is of the view that Chung has failed to:
  - (a) take reasonable steps to avoid conflicts of interest between himself and the client, or ensure the client was fairly treated, in breach of General Principle 6 of the Code of Conduct. In particular, upon receiving the client's instructions for the GTC Order, Chung ought to have reasonably foreseen a conflict of interest would arise if he continued to trade in Company A shares while executing the GTC Order but failed to avoid the conflicts of interest;
  - (b) act with due skill, care and diligence, in the best interests of the client and the integrity of the market, in breach of General Principle 2 of the Code of Conduct, and Quam's staff dealing policy; and
  - (c) execute the GTC Order on the best available terms for the client, and ensure the GTC Order had priority over his own orders, in breach of paragraphs 3.2 and 9.1 of the Code of Conduct.

## Conclusion

10. The SFC is of the view that Chung's fitness and properness to carry on regulated activities have been called into question.

11. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including Chung's disregard of the requirements under the Code of Conduct and his otherwise clean disciplinary record.