

## SFC bans Ma Yu Lung for eight years

26 Jan 2017

The Securities and Futures Commission (SFC) has banned Mr Ma Yu Lung, a former representative of Sun Hung Kai Investment Services Limited (SHKIS), from re-entering the industry for eight years from 26 January 2017 to 25 January 2025 for breach of the Code of Conduct (Notes 1 & 2).

The SFC's investigation found that on numerous occasions between September 2009 and February 2010, Ma:

- accepted order instructions from unknown and unauthorized individuals to trade securities listed on the Stock Exchange of Hong Kong, and colluded with SHKIS' account holders to pretend the order instructions originated from them when this was not the case;
- allowed execution of trades flowing from these order instructions in the securities trading accounts of others at SHKIS; and
- concealed the identities of those individuals who originally gave the relevant order instructions.

Ma's conduct was dishonest and cast serious doubts on his fitness and properness to be a licensed person because as a SFC-licensed representative, he should be satisfied on reasonable grounds the identity of the person ultimately responsible for originating the instruction in relation to a transaction and should not effect a transaction unless the identity of the person originating the order is satisfied (Note 3).

In deciding the sanction, the SFC took into account all relevant circumstances, including the seriousness of Ma's misconduct and that a strong deterrent message to the industry is necessary.

End

Notes:

1. Ma was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts) and Type 3 (leveraged foreign exchange trading) regulated activities, and was accredited to SHKIS, Sun Hung Kai Commodities Limited and Sun Hung Kai Forex Limited until June 2013. Ma is currently not licensed by the SFC.
2. Code of Conduct for Persons Licensed by or Registered with the SFC
3. General Principle 1 (honesty) of the Code of Conduct provides that a licensed person should conduct business activities honestly, and in the best interests of its clients and integrity of the market. Paragraph 5.4 of the Code of Conduct provides that a licensed person should be satisfied on reasonable grounds the identity of the person ultimately responsible for originating the instruction in relation to a transaction, and should not effect a transaction unless the identity of the person originating the order is satisfied. Paragraph 7.1 of the Code of Conduct provides that a licensed person should not effect a transaction for a client unless before the transaction is effected the client, or a person designated in writing by the client, has specifically authorized the transaction.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has banned Mr Ma Yu Lung (**Ma**) from re-entering the industry for eight years from 26 January 2017 to 25 January 2025 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. Ma was licensed under the SFO to carry on Type 1 (dealing in securities, Type 2 (dealing in futures contracts) and Type 3 (leveraged foreign exchange trading) regulated activities, and was accredited to Sun Hung Kai Investment Services Limited (**SHKIS**), Sun Hung Kai Commodities Limited and Sun Hung Kai Forex Limited until June 2013. Ma is currently not licensed by the SFC.
3. The SFC's investigation found that on numerous occasions between September 2009 and February 2010, Ma:
  - (a) accepted order instructions from unknown and unauthorized individuals to trade securities listed on the Stock Exchange of Hong Kong (**SEHK**), and colluded with SHKIS' account holders to pretend the order instructions originated from them when this was not the case;
  - (b) allowed execution of trades flowing from these order instructions in the securities trading accounts of others at SHKIS; and
  - (c) concealed the identities of those individuals who originally gave the relevant order instructions.
4. Ma's conduct was dishonest and fell short of the standards set out in the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**), and cast serious doubts on his fitness and properness to be a licensed person.

### Summary of facts

5. At the material time, Ma's work duties at SHKIS included taking order instructions from clients and executing client orders on the SEHK.
6. During the course of the SFC's investigation, recordings of the telephone lines used by Ma in the office, which include telephone extensions that were recorded (**Recorded Lines**) and an extension that was not intended to be recorded but was mistakenly recorded (**Unrecorded Line**), were obtained.
7. These telephone recordings show that:
  - (a) on at least 48 occasions between September 2009 and January 2010, Ma used the Unrecorded Line to accept order instructions from two unknown persons. The evidence shows on many of those occasions, Ma then used the Unrecorded Line to telephone certain account holders and instructed them to place or confirm the unknown persons'

order instructions with him. Later, Ma or the relevant account holders would place or confirm the unknown persons' orders using the Recorded Lines, pretending those orders originated from the account holders; and

- (b) on at least one occasion on 23 February 2010, Ma used the Unrecorded Line to accept cross trade instructions from a person who was not properly authorized to trade for two accounts. Afterwards, Ma used the Unrecorded Line to instruct the relevant account holders to place or confirm the cross trade orders with him. One of the account holders then telephoned Ma on the Recorded Line to pretend he wished to sell his shares. After which, Ma used the Recorded Line to telephone another account holder and pretended to ask if the account holder was interested to buy the shares. During these telephone calls, Ma and the account holders pretended the order instructions originated from the account holders.
8. During his interviews with the SFC, Ma claimed he could not recall who were the unknown persons and the unauthorized person in the telephone recordings.

### **Conclusion**

9. As a licensed representative, Ma has to comply with the Code of Conduct, which stipulates that a licensed representative should, among others:
- (a) conduct business activities honestly, and in the best interests of its clients and integrity of the market (General Principal 1);
  - (b) be satisfied on reasonable grounds the identity of the person ultimately responsible for originating the instruction in relation to a transaction, and should not effect a transaction unless the identity of the person originating the order is satisfied (paragraph 5.4); and
  - (c) not effect a transaction for a client unless before the transaction is effected the client, or a person designated in writing by the client, has specifically authorized the transaction (paragraph 7.1).
10. It is apparent from the circumstances that Ma has breached General Principal 1, and paragraphs 5.4 and 7.1 of the Code of Conduct. His conduct was dishonest and cast serious doubts on his fitness and propriety to be a licensed person.
11. In coming to the decision to take disciplinary action against Ma as set out in paragraph 1 above, the SFC took into account all relevant circumstances, including Ma's clean disciplinary record at the time of the misconduct, the seriousness of his misconduct and a strong deterrent message to the industry is necessary.

## 證監會禁止馬如龍重投業界八年

2017年1月26日

新鴻基投資服務有限公司（新鴻基投資服務）前代表馬如龍（男）因違反《操守準則》，遭證券及期貨事務監察委員會（證監會）禁止其重投業界八年，由2017年1月26日起至2025年1月25日止（註1及2）。

證監會的調查發現，於2009年9月至2010年2月期間，馬曾多次：

- 接受身分不明及未經授權人士的交易指示，買賣於香港聯合交易所上市的證券，並與新鴻基投資服務的帳戶持有人串通，假裝該等交易指示是由這些帳戶持有人發出，但實情卻非如此；
- 容許該等交易指示產生的交易在其他人士於新鴻基投資服務的證券交易帳戶內執行；及
- 隱瞞該等原先發出相關交易指示的人士的身分。

馬的行為有欠誠實，令他作為持牌人的適當人選資格受到嚴重質疑，原因是作為證監會持牌代表，他應在合理基礎上信納最初負責發出交易指示人士的身分，除非該人士的身分已被信納，否則不應執行有關交易（註3）。

證監會在釐定罰則時，已考慮到所有相關情況，包括馬所犯失當行為的嚴重性，以及有需要對業界發出強烈的阻嚇訊息。

完

備註：

1. 馬根據《證券及期貨條例》獲發牌進行第1類（證券交易）、第2類（期貨合約交易）及第3類（槓桿式外匯交易）受規管活動，並曾隸屬於新鴻基投資服務、新鴻基期貨有限公司及新鴻基外匯有限公司，直至2013年6月。馬現時並非證監會持牌人。
2. 《證券及期貨事務監察委員會持牌人或註冊人操守準則》
3. 《操守準則》第1項一般原則（誠實）規定，持牌人應以誠實、維護客戶最佳利益及確保市場廉潔穩健的態度經營其業務。《操守準則》第5.4段規定，持牌人應基於合理的原因信納最初負責就一項交易發出交易指示的人士的身分，以及除非已信納發出交易指示的人士的身分，否則不應執行有關交易。《操守準則》第7.1段規定，持牌人應為客戶進交，除非在進交之前已獲得該客戶或其以書面指定的人士特定授權進交。

[有關紀律處分行動聲明載於證監會網站](#)

最後更新日期：2017年1月26日

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## 紀律處分行動聲明

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### 紀律處分行動

1. 證券及期貨事務監察委員會（**證監會**）根據《證券及期貨條例》第 194 條禁止馬如龍（**馬**）重投業界八年，由 2017 年 1 月 26 日起至 2025 年 1 月 25 日止。
2. 馬根據《證券及期貨條例》獲發牌進行第 1 類（證券交易）、第 2 類（期貨合約交易）及第 3 類（槓桿式外匯交易）受規管活動，並曾隸屬於新鴻基投資服務有限公司（**新鴻基投資服務**）、新鴻基期貨有限公司及新鴻基外匯有限公司，直至 2013 年 6 月。馬現時並非證監會持牌人。
3. 證監會的調查發現，於 2009 年 9 月至 2010 年 2 月期間，馬曾多次：
  - (a) 接受身分不明及未經授權人士的交易指示，買賣於香港聯合交易所（**聯交所**）上市的證券，並與新鴻基投資服務的帳戶持有人串通，假裝該等交易指示是由這些帳戶持有人發出的，但實情卻非如此；
  - (b) 容許該等交易指示產生的交易在其他人士於新鴻基投資服務的證券交易帳戶內執行；及
  - (c) 隱瞞該等原先發出相關交易指示的人士的身分。
4. 馬的行為有欠誠實，及不符合《證券及期貨事務監察委員會持牌人或註冊人操守準則》（《**操守準則**》）所訂的標準，令他作為持牌人的適當人選資格受到嚴重質疑。

### 事實摘要

5. 在關鍵時間，馬於新鴻基投資服務的職責包括接受客戶的交易指示，以及於聯交所執行客戶的交易指示。
6. 證監會在調查過程中，取得了馬於辦公室使用的電話線的錄音，包括多條被錄音的電話分線（**被錄音的電話線**），以及一條不擬被錄音，但卻被錯誤地錄音的電話分線（**未被錄音的電話線**）。
7. 該等電話錄音顯示：
  - (a) 於 2009 年 9 月至 2010 年 1 月期間，馬曾至少 48 次使用未被錄音的電話線接受兩名身分不名人士的交易指示。有關證據顯示，馬在該等情況中曾多次使用未被錄音的電話線致電若干帳戶持有人，指示他們向他發出或確認該兩名不知名人士的交易指示。其後，馬或相關的帳戶持有人會使用被錄音的電話線，發出或確認該兩名不知名人士的交易指示，假裝該等指示是由帳戶持有人發出的；及

- (b) 於 2010 年 2 月 23 日，馬曾至少一次使用未被錄音的電話線，接受一名未經授權就兩個帳戶進行交易的人士發出的交叉盤交易指示。之後，馬使用未被錄音的電話線，指示相關的帳戶持有人向他發出或確認交叉盤交易指示。其中一名帳戶持後人其後以被錄音的電話線致電馬，假裝他希望出售其股份。之後，馬使用被錄音的電話線致電另一名帳戶持有人，並假裝詢問該名帳戶持有人是否有興趣買入股份。於該等電話通話中，馬及多名帳戶持有人假裝交易指示是由帳戶持有人發出的。
8. 馬於與證監會進行會見時表示，他記不起電話錄音中的兩名身分不明人士及一名未經授權人士是誰。

## 結論

9. 作為持牌代表，馬須遵守《操守準則》的規定，當中訂明（其中包括）持牌代表：
- (a) 應以誠實、維護客戶最佳利益及確保市場廉潔穩健的態度經營其業務（第 1 項一般原則）；
  - (b) 應基於合理的原因信納最初負責就一項交易發出交易指示的人士的身分，以及除非已信納發出交易指示的人士的身分，否則不應執行有關交易（第 5.4 段）；及
  - (c) 不應為客戶進行交易，除非在進行交易之前已獲得該客戶或其以書面指定的人士特定授權進行交易（第 7.1 段）。
10. 上述情況清楚顯示，馬違反了《操守準則》第 1 項一般原則、第 5.4 及 7.1 段。他的行為有欠誠實，令他作為持牌人的適當人選資格受到嚴重質疑。
11. 證監會在決定對馬採取上文第 1 段所述的紀律處分行動時，已考慮到所有相關情況，包括馬在干犯失當行為時並無遭受紀律處分的紀錄、他所犯失當行為的嚴重性，以及有需要對業界發出強烈的阻嚇訊息。