
STATEMENT OF DISCIPLINARY ACTION

I. The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited He Zhi Hua, pursuant to section 194(1)(iv) of the SFO, from doing all or any of the following in relation to any regulated activities for 12 months:
 - (i) applying to be licensed as a representative;
 - (ii) applying to be approved under section 126(1) of the SFO as a responsible officer of a licensed corporation;
 - (iii) applying to be given consent to act or continue to act as an executive officer of a registered institution under section 71C of the Banking Ordinance; and
 - (iv) seeking through a registered institution to have his name entered in the register maintained by the HKMA under section 20 of the Banking Ordinance as that of a person engaged by the registered institution in respect of a regulated activity.
2. The serious internal control deficiencies of Ping An of China Securities (Hong Kong) Company Limited (**Ping An**) during the period between 1 August 2010 and 30 April 2011 (**Relevant Period**) were attributable to He. Specifically, Ping An failed to:
 - (a) establish internal control procedures aimed at preventing and impeding money laundering;
 - (b) identify and report suspicious transactions in a timely manner, resulting in delayed notification to the Joint Financial Intelligence Unit (**JFIU**) and the SFC of such suspicious transactions;
 - (c) provide anti-money laundering (**AML**) training to its staff;

- (d) establish and follow appropriate and effective procedures to protect client assets, by effecting:
 - third party payments without having obtained either written confirmation of the client's direction or any evidence of the client's instruction;
 - a client payment to its employee at the time;
 - third party payments without having conducted assessment on payment recipients and reasons for payments;
- (e) communicate and enforce its internal policies on employee dealings;
- (f) enforce its account opening procedures; and
- (g) have in place an effective compliance function¹.

II. Summary of facts and breaches

3. In summary, the SFC has concerns over Ping An's internal control deficiencies in the following areas during the Relevant Period:

(i) Lack of internal controls on AML²

4. He, Chief Executive Officer and a director of Ping An, acted as a nominee in a series of suspicious transactions carried out by Ping An's clients between October and November 2010. Notwithstanding a number of apparent red flags, these suspicious transactions were not identified and followed-up. As a result, the reporting of these suspicious transactions to the JFIU took place only around four months after the same were carried out, and hence was not done in a timely fashion as required³.

5. There was a lack of properly formulated internal AML policies at Ping An and, as Ping An did not provide AML training to members of staff, its staff were unaware of any internal requirements on AML during the Relevant Period.

(ii) Handling of client assets⁴

¹ Ping An was reprimanded and fined \$6 million by the SFC over these internal control failures. Please refer to the press release dated 9 July 2014.

² These failures were in breach of paragraphs 4.2, 9, 10 and 11 of the AML Guidance Note. During the Relevant Period, the "Prevention of Money Laundering and Terrorist Financing Guidance Note" (**AML Guidance Note**), published by the SFC in September 2009 under section 399 of the SFO, was in force. From 1 April 2012, the "Guideline on Anti-Money Laundering and Counter-Terrorist Financing", together with the "Prevention of Money Laundering and Terrorist Financing Guideline", superseded the AML Guidance Note. These failures also contravened paragraph 5.4, General Principle (**GP**) 2, GP3 and GP7 of The Code of Conduct for Persons Licensed by or Registered with the SFC (**the Code of Conduct**).

³ Section 25A of the Organized and Serious Crimes Ordinance requires a person who suspects that any property represents proceeds of, or was used in connection with, or is intended to be used in connection with an indictable offence to disclose that suspicion to an authorized officer "as soon as it is reasonable for him to do so".

⁴ The manner in which Ping An handled client assets and its lack of policy and control in relation to third party payments during the Relevant Period was in breach of sections 5(1)(b) and 5(3) of the Securities and Futures (Client Money) Rules, paragraphs 2 and 3 of The Suggested Control Techniques and Procedures for Enhancing a Firm's Ability to Comply with the Securities and Futures (Client Securities) Rules and the Securities and Futures (Client Money) Rules, paragraph 9 under Part VII of The Management, Supervision and Internal Control Guidelines for Persons Licensed By or Registered with

6. There was also a lack of internal policies on the handling of third party payments at Ping An during the Relevant Period. For all the 37 third party payments effected, Ping An did not conduct any assessment on the reasons for making the third party payments. In addition, Ping An did not obtain identity proof of payment recipients for 23 of these third party payments.
 7. In some cases, third party payments were effected by Ping An without having received proper written directions from the relevant client. This was condoned by He. In particular, the SFC observed cases where:
 - (a) client's signatures were obtained only after the relevant third party payments were made (which payments were nevertheless approved by He and processed despite the lack of client's signatures);
 - (b) third party payment instruction forms were signed by another client (which forms were confirmed by He);
 - (c) a client's third party payment instruction form was signed by a member of staff of Ping An (which form was again approved by He and payment processed);
 - (d) client's signature is incomplete and on an incorrect instruction form; and
 - (e) client's signature on third party payment instruction forms does not match with account opening documents (but payment was nonetheless processed).
 8. There was also an occasion where Ping An effected a third party payment to its employee. It concerned a payment made from a client's account into the account of the client's daughter, who was then a customer service officer at Ping An.
- (iii) Staff dealing policies⁵
9. During the Relevant Period, Ping An failed to ensure compliance with its staff dealing policies, which were designed to help minimize conflicts of interests. Ping An employees are required to declare their personal account(s) upon joining the firm by way of filling in an employee declaration form. However, two of the 15 employees who joined Ping An during and prior to the Relevant Period did not submit the relevant employee declaration forms until after 12 and 19 months upon joining respectively.
 10. Generally, Ping An did not have a set of staff dealing policy that was clearly formulated, communicated to its employees and enforced by compliance or senior management, nor did it provide adequate training to ensure staff awareness on conflicts of interests and compliance during the Relevant Period.

the SFC (**Internal Control Guidelines**), as well as GP2, GP3, GP8, paragraphs 4.3 and 11.1 of the Code of Conduct.

⁵ Ping An was in breach of paragraphs 2 and 3 under Part III of the Internal Control Guidelines, and paragraph 12.2, GP2, GP6 and GP7 of the Code of Conduct.

(iv) Account opening procedures⁶

11. During the Relevant Period, 117 accounts were opened and activated without RO approval. During this period, 15 client accounts were also opened without valid address proof. Although Ping An had in place a set of account opening procedures, it had failed to diligently enforce such procedures.

(v) Lack of compliance function⁷

12. The above internal control deficiencies reflect the inadequacy of Ping An's compliance function during the Relevant Period. In particular, between mid-October 2010 and March 2011, Ping An had no independent designated compliance officer.

(vi) The role of He

13. During the Relevant Period, He was the most senior person at Ping An and in a position of authority in managing its business. In spite of his role in decision-making, especially on high-level and important matters, He's conduct fell short of the standard required of him as CEO and director of Ping An. He either did not understand what was required of him in his capacity or he blatantly disregarded such requirements. He was also embroiled in management clashes with his subordinate. Such conflict aggravated the internal control deficiencies of Ping An.

III. Conclusion

15. The SFC concludes the conduct of He serious in that He contributed to Ping An's internal control deficiencies by failing to ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by Ping An. The conduct of He was inconsistent with paragraph 4.2, GP2 and GP9 of the Code of Conduct.
16. In deciding the disciplinary sanction set out in paragraph 1, the SFC has taken into account all relevant circumstances, including the otherwise clean disciplinary record of He.

⁶ Ping An was in breach of paragraph 1 under Part VII of the Internal Control Guidelines, and paragraph 5.4, GP2 and GP7 of the Code of Conduct.

⁷ Ping An did not have an effective compliance function during the Relevant Period which was in breach of Part V of the Internal Control Guidelines and paragraph 12.1, GP2, GP3 and GP7 of the Code of Conduct.