

June 2024

Failures in managing a private fund



The SFC said on 20 June 2024 it suspended Mr. Shum Wai Nap, the former licensed representative of PICC Asset Management (Hong Kong) Company Limited ("**PICC**"), for seven months on the back of fund management failures. Mr. Shum was the portfolio manager for a Cayman-incorporated fund (the "**Fund**") between May 2018 and April 2020.

According to the SFC:

1. Mr. Shum failed to properly manage the Fund to ensure that its investments were in line with its stated investment strategy, objectives and investment restrictions. The Fund's investment objective was "to achieve capital preservation combined with steady capital appreciation over a long term through primarily investing in a diversified portfolio of equity securities." Instead, there were only one to three stocks at any given point in time in the Fund's portfolio during the 21-month period from its inception in May 2018 to January 2020.

In addition, the Fund held highly concentrated positions in two Hong Kong-listed stocks, one of which was not on the permitted securities list approved by PICC's senior management. Further, it was found that

Mr. Shum failed to properly manage and take proactive steps to mitigate Fund risks in accordance with PICC's policies where the holding of an unsuitable stock was concerned.

2. Mr. Shum further failed to properly manage Fund risks in accordance with PICC's policies in terms of the Fund's liquidity and concentration risks, while also breaching PICC's stop-loss procedures.

The case serves to remind all fund managers to adhere to investment mandates and properly manage fund risks. If, as a result of market conditions, new investment opportunities or other reasons arise that appear to justify a change in a fund's underlying investment objective and strategy, the fund should obtain consent from all existing investors unless the terms of subscription say otherwise, generally speaking.

It is also a reminder that fund managers should adhere to internal policies, such as restrictive securities lists, or stop-loss or soft winding-up procedures. This is in addition to complying with relevant laws and regulations, including the Fund Manager Code of Conduct.

Should any fund managers require legal advice, please feel free to reach out.

Contact us



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