

Enforcement

Court proceedings

During the quarter, the Court of Final Appeal dismissed the appeal of Moody's Investors Service Hong Kong Limited in relation to our disciplinary action concerning the special comment report it published in 2011.

The Court of Appeal allowed our appeal against the decision of the Market Misconduct Tribunal (MMT) that Cheng Chak Ngok, former executive director, chief financial officer and company secretary of ENN Energy Holdings Limited, had not engaged in insider dealing in the shares of China Gas Holdings Limited in 2011.

The Eastern Magistrates' Court convicted Hui Kwok Piu and fined him \$231,000 for illegal short selling in the shares of Coslight Technology International Group Limited. In a separate case, the Court found Wong Hung not guilty of illegal short selling in the shares of five companies. The Court also fixed a date for trial of Chan Wai Chuen, a former director, company secretary and chief financial officer of DBA Telecommunication (Asia) Holdings Limited, in relation to an announcement issued by DBA suspected of containing material information that was false or misleading.

Market Misconduct Tribunal

The MMT found that Samantha Keung Wai Fun, former CEO of China AU Group Holdings Limited, her friend Wu Hsiu Jung and a business partner Chen Kuo Chen, engaged in false trading in the shares of China AU.

Disciplinary actions

We disciplined five licensed corporations and five representatives during the quarter, resulting in total fines¹ of \$40.4 million.

Sponsor failures

We reprimanded and fined CCB International Capital Limited \$24 million for failing to discharge its duties as the sole sponsor in the listing application of Fujian Dongya Aquatic Products Co., Ltd. CCB failed to conduct reasonable due diligence on the company and keep a proper audit trail of its due diligence work.

We banned Joseph Hsu Kar Hing, a former responsible officer of Standard Chartered Securities (Hong Kong) Limited, from re-entering the industry for three years for failing to discharge his duties as a sponsor principal and a responsible officer.

Deficiencies in selling listed bonds

We reprimanded and fined HSBC Broking Securities (Asia) Limited \$9.6 million for systemic deficiencies in selling bonds listed under Chapter 37 of the Main Board Listing Rules. HSBC failed to conduct proper and adequate product due diligence and have an effective system in place to assess its clients' risk profiles to ensure the suitability of the recommendations or solicitations it made to them.

Mis-handling client money and data

We reprimanded and fined HPI Forex Limited \$2 million for mis-handling client money, which it failed to maintain in a segregated client account in Hong Kong and used to conduct proprietary transactions overseas.

We banned Cham Nga Yin, a former licensed representative of Tanrich Futures Limited², from re-entering the industry for life for misappropriation of client money.

We banned Ngo Wing Chun, a former relationship manager of Hongkong and Shanghai Banking Corporation Limited, from re-entering the industry for 12 months for unauthorised transfer of customer data.

Other regulatory breaches

We reprimanded and fined Citigroup Global Markets Asia Limited \$4 million after resolving our concerns over regulatory breaches in the operation of its alternative liquidity pool.

Huatai Financial Holdings (Hong Kong) Limited was reprimanded and fined \$800,000 for failures relating to its short selling of Great Wall Motor Company Limited shares in 2015. Huatai failed to implement adequate and effective systems and controls for short selling.

¹ Fines paid by intermediaries in disciplinary actions go into the general revenue of the Government.

² Now known as Southwest Securities (HK) Futures Limited.

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We banned Poon Chun Hing from re-entering the industry for 30 months for providing false or misleading information to his client and to us, as well as conducting transactions through an unlicensed corporation.

We banned Fonia Kwok Lai Kwan from re-entering the industry for 12 months following her conviction for unlicensed asset management.

Reporting listed company fraud and market misconduct

Credible, timely and actionable intelligence from the public can help us stop listed company fraud and market misconduct in their tracks and protect investors from harm. We launched a new reporting form on the SFC website in October to encourage the public to report suspected fraud and misconduct, including misleading or fraudulent financial statements, directors' conflicts of interests, failure to disclose price-sensitive information, insider dealing and stock market manipulation. We also conducted a campaign to raise public awareness about these threats and the importance of reporting misconduct to the SFC.



Disciplinary Fining Guidelines

We updated our Disciplinary Fining Guidelines in August to codify the fining principles confirmed by the Securities and Futures Appeals Tribunal in our disciplinary proceedings against HSBC Private Bank (Suisse) SA.

Under these principles, multiple culpable acts or omissions constituting misconduct may attract multiple penalties even if they are of the same generic nature. We may use the number of persons affected by the misconduct as the multiplier in assessing the appropriate penalty. The approach will depend on the facts of each case and we will look at the totality of the penalties to ensure they are not disproportionate to the gravity of the conduct in question.

Market surveillance

We made 1,958 requests for trading and account records from intermediaries in the quarter. In addition, we posted one high shareholding concentration announcement on our website to remind investors to exercise caution when trading shares in companies where a small number of shareholders hold a high concentration of shares.



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Enforcement activities

	Quarter ended 30.9.2018	Six months ended 30.9.2018	Six months ended 30.9.2017	YoY change (%)
S179 ^a inquiries commenced	7	12	15	-20
S181 ^b inquiries commenced (number of letters sent)	70 (1,958)	145 (4,137)	148 (4,917)	-15.9
S182 ^c directions issued	60	120	148	-18.9
Investigations started	62	123	153	-19.6
Investigations completed	65	122	112	8.9
Individuals and corporations charged in criminal proceedings	0	4	10	-60
Criminal charges laid	0	37	42	-11.9
Notices of Proposed Disciplinary Action ^d issued	6	8	16	-50
Notices of Decision ^e issued	9	21	12	75
Individuals and corporations subject to ongoing civil proceedings ^f	110	110	118	-6.8
Compliance advice letters issued	73	122	162	-24.7
Cases with search warrants executed	9	15	15	0

^a Section 179 of the Securities and Futures Ordinance (SFO) gives the SFC the power to compel the production of records and documents from persons related to a listed company in relation to fraud or other misconduct.

^b Section 181 of the SFO gives the SFC the power to require information from intermediaries about trading transactions, including information identifying the ultimate clients, the particulars and instructions relating to the transactions.

^c Section 182 of the SFO gives the SFC the power to investigate SFO offences, market misconduct, fraud, misfeasance and disciplinary misconduct.

^d A notice issued by the SFC to regulated persons that it proposes to exercise its disciplinary powers, on grounds that they appear to be guilty of misconduct or not fit and proper.

^e A notice which sets out the SFC's decision and its reasons to take disciplinary action against regulated persons.

^f As of the last day of the reporting period.