

Enforcement

Court proceedings

The Court of First Instance (CFI) granted orders under section 213¹ of the Securities and Futures Ordinance (SFO) against fraudsters² of a global pyramid and ponzi scheme to compensate their victims. The Court appointed administrators to receive and distribute to aggrieved investors the proceeds from the scheme totalling \$2.8 million in two bank accounts frozen by the SFC.

The CFI also granted orders under section 213 of the SFO against Maxim Capital Limited and Maxim Trader to pay aggrieved investors in relation to certain

investment schemes they operated. The Court appointed administrators to receive, administer and distribute a total sum of approximately \$23.5 million in an account frozen by the SFC to the investors on a pro rata basis. The Court also ordered Maxim Capital Limited and Maxim Trader, while unlicensed, not to hold themselves out as carrying on a business in regulated activities.

Disciplinary actions

We disciplined two corporations and two individuals during the quarter, resulting in total fines³ of \$7 million.

Anti-money laundering and counter-terrorist financing regulatory breaches

Company/Name	Breaches	Action
China Everbright Securities (HK) Limited	Failed to implement adequate and effective systems and controls to guard against and mitigate the risk of money laundering and terrorist financing associated with third party deposits	Reprimanded and fined \$3.8 million

Other regulatory breaches

Company/Name	Breaches	Action
CES Capital International (Hong Kong) Co., Limited	Failed to discharge its duties as an investment manager of two funds	Reprimanded and fined \$3.2 million
Ho Pak Hay	Misappropriated and misused clients' funds	Banned from re-entering the industry for life
Poon Choi Yung	Effected transactions in clients' accounts without their authorisation and failed to take reasonable steps to establish clients' financial situations and investment experience during account opening	Banned from re-entering the industry for 20 months

¹ Section 213 of the SFO empowers the court to make a broad range of orders including injunctive relief and other civil remedies on the application of the SFC.

² DFRF Enterprises LLC, DFRF Enterprises, LLC, and Daniel Fernandes Rojo Filho.

³ Fines paid by intermediaries in disciplinary actions go into the general revenue of the Government.

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Public consultation on law amendments

In June, we began a two-month public consultation on proposals to amend the SFO to facilitate more effective enforcement actions. The proposed amendments would broaden the scope of some SFO provisions to expand the basis for the SFC to apply for remedial and other orders against a regulated person under section 213. The amendments would also clarify that the professional investor exemption in section 103(3)(k) applies to unauthorised advertisements of investment products issued only to professional investors. Other amendments would expand the insider dealing provisions to cover insider dealing in overseas-listed securities or their derivatives conducted in Hong Kong as well as insider dealing in Hong Kong-listed securities or their derivatives perpetrated outside Hong Kong.

Enforcement cooperation with the CSRC

In June, we held a meeting with the China Securities Regulatory Commission (CSRC) via video conference where we discussed our enforcement cooperation efforts during 2022.



We also agreed on follow-up arrangements for emerging issues related to cross-boundary enforcement cooperation issues. We shared with the CSRC our experience of conducting video interviews since the pandemic and exchanged views on other topics such as arranging training programmes for enforcement officers.

We and the CSRC have maintained close and smooth enforcement collaboration and will continue to enhance communication and expand enforcement cooperation.

We will also seek to address operational issues and work together to tackle cross-boundary securities misconduct and support the healthy, long-term development of the capital markets in the two jurisdictions.

Market surveillance

Our surveillance of untoward price and turnover movements resulted in 1,392 requests for trading and account records from intermediaries in the quarter. In addition, we published three high shareholding concentration announcements to remind investors to exercise caution when trading shares in companies where a small number of shareholders hold a high concentration of shares.



Virtual meeting on enforcement cooperation with the CSRC (right)

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Enforcement activities

	Quarter ended 30.6.2022	Quarter ended 31.3.2022	Change (%)	Quarter ended 30.6.2021	YoY change (%)
S179 ^a inquiries commenced	5	12	-58.3	15	-66.7
S181 ^b inquiries commenced (number of letters sent)	40 (1,392)	31 (972)	43.2	63 (2,319)	-40
S182 ^c directions issued	24	41	-41.5	59	-59.3
Investigations started	24	42	-42.9	62	-61.3
Investigations completed	44	40	10	31	41.9
Individuals and corporations charged in criminal proceedings	3	0	N/A	2	50
Criminal charges laid	47	0	N/A	18	161.1
Notices of Proposed Disciplinary Action ^d issued	6	5	20	10	-40
Notices of Decision ^e issued	6	10	-40	7	-14.3
Individuals and corporations subject to ongoing civil proceedings ^f	169	168	0.6	170	-0.6
Compliance advice letters issued	23	33	-30.3	36	-36.1
Cases with search warrants executed	11	1	1,000	20	-45

a Section 179 of the 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 that sets out the SFC's decision and its reasons to take disciplinary action against regulated persons.

f As of the last day of the period.