

Enforcement

We take firm and prompt action to combat crime and misconduct in the securities and futures markets, focusing on high-impact cases which pose the greatest risks to the investing public. Through proactive enforcement, we send strong deterrent messages whilst ensuring fairness and integrity.

Our tools under the SFO

We use the full spectrum of sanctions and remedies available to us under the Securities and Futures Ordinance (SFO), including through criminal, administrative, compensatory and disciplinary actions.

We have broad powers to hold directors and individuals responsible for misconduct committed by the companies they manage. We can discipline licensed intermediaries through reprimands, fines¹ and suspensions or revocations of licences, and apply to the court for injunctive and remedial orders against wrongdoers in favour of victims.

In dealing with market misconduct, such as insider dealing and market manipulation, we can also institute criminal prosecutions and bring cases directly to the Market Misconduct Tribunal (MMT).

Our work in figures



[^] These requests were made to intermediaries as a result of our surveillance of untoward price movements and turnover.

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

During the year, we commenced 238 investigations and laid 42 criminal charges against four individuals and one corporation and secured convictions against four persons and one corporation.

We obtained disqualification and restorative orders against one person and seven corporations. Civil actions seeking financial redress and other remedial orders against 101 persons and corporations in 23 cases are pending before the court.

Disciplinary action was taken against 14 persons and 21 corporations. In addition, we commenced three cases before the MMT against three corporations and nine persons for suspected market misconduct or late disclosure of inside information.

We also issued 234 compliance advice letters to address areas of regulatory concern and raise standards of conduct and compliance in the industry.

Market surveillance

On a daily basis, we monitor trading on The Stock Exchange of Hong Kong Limited (SEHK) and the Hong Kong Futures Exchange Limited and conduct preliminary inquiries to detect possible market manipulation or insider dealing. We also engage with firms to review how they perform their monitoring and surveillance.

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Through an organisation-wide Market Intelligence Programme, we use the latest technologies to identify conduct risks in our markets, including potential misconduct by interconnected parties. Data collected from our operations and public sources is analysed to isolate patterns and connections between individuals, companies and transactions which may indicate conduct risks.

Our surveillance of untoward price and turnover movements resulted in 9,074 requests for trading and account records from intermediaries. We also received 192 notifications from intermediaries² regarding suspicious equity and derivative trading.

We posted 10 announcements on our website reminding the investing public to exercise caution when trading in shares of listed companies where a small number of shareholders hold a high concentration of shares.

IPO sponsor failures

Initial public offering (IPO) sponsor misconduct is a top enforcement priority. Our enforcement actions help improve the standards of sponsors' due diligence and ensure they perform their gatekeeping role properly and diligently. During the year, we disciplined seven sponsor firms and three sponsor principals and imposed fines totalling \$867.7 million.

- We reprimanded and fined UBS AG and UBS Securities Hong Kong Limited a total of \$375 million for failing to discharge their obligations as a joint sponsor of China Forestry Holdings Company Limited³, Tianhe Chemicals Group Limited⁴ and another listing application⁵. We also partially suspended UBS Securities' licence to advise on corporate finance for one year, during which it cannot act as a Hong Kong IPO sponsor.
- We also suspended the licence of Cen Tian⁶ for two years for failing to discharge his supervisory duties as a sponsor principal in China Forestry's listing application.

- We reprimanded and fined Standard Chartered Securities (Hong Kong) Limited \$59.7 million for failing to discharge its obligations as a joint sponsor of China Forestry's listing application. It failed to conduct reasonable due diligence of core aspects of China Forestry's business, including its forestry assets.
- We banned Joseph Hsu Kar Hing, a former Standard Chartered responsible officer, from re-entering the industry for three years for failing to discharge his duties as a sponsor principal and a responsible officer.
- We reprimanded and fined Morgan Stanley Asia Limited \$224 million and Merrill Lynch Far East Limited \$128 million for failing to discharge their obligations as joint sponsors of Tianhe's listing application. They failed to follow the guidelines for due diligence interviews, allowed Tianhe to control the due diligence process and failed to take appropriate steps to address red flags.
- We reprimanded and fined Citigroup Global Markets Asia Limited \$57 million for failing to conduct adequate and reasonable due diligence on Real Gold Mining Limited's customers and properly supervise its listing application.
- 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 and keep a proper audit trail of its work.
- We suspended the licence of Wu Yinong, a former responsible officer of China Merchants Securities (HK) Co., Limited, for 18 months for failing to discharge his duties as a sponsor principal in a listing application.

² Intermediaries are required to report clients' suspected market misconduct to the SFC under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

³ Trading in China Forestry shares was suspended in January 2011. The company was wound up and the listing of its shares was cancelled in February 2017.

⁴ Tianhe was listed on the Main Board in June 2014 and trading in its shares was suspended in March 2015. The SFC directed SEHK to suspend all dealings in the shares of Tianhe in May 2017.

⁵ Details will not be disclosed until the SFC's disciplinary proceedings against other parties involved in this listing application are concluded.

⁶ A former sponsor principal and executive of UBS AG and a licensed representative of UBS Securities Hong Kong.

Safeguarding evidence

Our Evidence Management System team, part of our Enforcement Division, is entrusted with the management and safekeeping of materials related to about one thousand active SFC cases.

To collect evidence in our investigations against market misconduct, we searched more than 300 corporate and residential premises in about 50 operations over the last two years. About 5,000 items of evidence, including a large number of mobile phones, computers and other digital electronic devices, were seized.

Inside our exhibit rooms, rows of shelves are lined with thousands of items sealed in plastic, from paper documents to computer consoles. Many will be used as evidence in court.

Items are transferred between the exhibit rooms and the SFC's headquarters. When a case is closed, exhibits are returned to their owners or moved to a warehouse for storage. Inventory controls ensure that everything is accounted for.

"We made sure that nothing was lost when moving office five times over the past eight years," related Edmund Lee, Senior Administrator. During this time, the exhibit rooms expanded from 500 square feet to more than 3,000 square feet as a result of our increased caseload.

With advances in technology, the SFC has moved away from paper-based systems to keep in step with new trends in digital evidence management. "One of our greatest satisfactions was getting the

evidence management system up and running from scratch," Teresa Ho, Officer, said. Every exhibit is digitally scanned and labelled with a barcode for easy access and tracking.

The team also oversees four forensic labs to reproduce digital evidence from computers, mobile phones and other devices seized by SFC investigators. "The digitalisation of exhibits certainly helps," added Johnny Ho, Manager. "But it still takes great attention to detail and meticulousness to do our job right."

"The team is vested with the responsibility of preserving the chain of evidence, so even if search operations finish late, the team would stay well into the night to handle the new items seized and ensure they are under safe custody," said Irene Tse, Senior Administrator. "This reflects the team's professional commitment which is the SFC's core value."



From left: Teresa Ho, Edmund Lee, Johnny Ho, Irene Tse

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Mr Thomas Atkinson, Executive Director, Enforcement, speaks at 2018 Refinitiv Pan Asian Regulatory Summit

Corporate fraud and misbehaviour Director misconduct

We commenced MMT proceedings against Li Kwok Cheong and Li Han Chun, respectively former chairman and chief executive officer of China Forestry, for suspected disclosure of false or misleading information in the company's IPO prospectus and subsequent financial reports, inducing transactions in the company's shares. We also commenced MMT proceedings against Li Han Chun and his investment vehicle Top Wisdom Overseas Holdings Limited for suspected insider dealing in the company's shares.

We commenced civil proceedings under section 214 of the SFO to seek disqualification orders against the following senior executives of listed companies:

- Duncan Chiu and Derek Chiu, two former directors, and Michael Lui Hung Kwong, former senior officer, of Far East Holdings International Limited. This followed an investigation into Far East's transfers of \$61 million from the company's bank accounts to the personal bank accounts of the then chairman Deacon Chiu Te Ken⁷ purportedly for the subscription of IPO shares on behalf of Far East. The SFC alleged, among other things, that Duncan and Derek Chiu, together with Lui, conducted the company's business or affairs in a manner involving defalcation, misfeasance or other misconduct.

⁷ The late father of Duncan and Derek Chiu.

⁸ Yeung Chi Hung and Chow Lai Fung.

⁹ Stephen Tang Siu Kun, She Yu Yuan, Luo Yao Wen, Cheng Wing Hong, Sun Yan, Chen Dar Cin, Yan Kam Tong, Yang Rude and Dong Yin Mao.

¹⁰ Formerly known as Biostime International Holdings Ltd.

¹¹ Formerly known as Mission Capital Holdings Limited.

¹² Philip Suen Yick Lun (former chief executive officer and company secretary), Paul Suen Cho Hung (former chairman), Lau King Hang (former executive director) and three former independent non-executive directors, Huang Zhencheng, Weng Yixiang and Wong Kwok Tai.

- Joseph Lau Chi Yuen, the former chairman and executive director of Luxey International (Holdings) Limited, and Chung Man Wai, the company's former chief executive officer and executive director, for allegedly conducting the company's business or affairs in a manner involving fraud, misfeasance or other misconduct. The SFC alleged that Lau might have obtained a profit in a very substantial acquisition by Luxey.

The Eastern Magistrates' Court convicted and fined DBA Telecommunication (Asia) Holdings Limited and its former director Chan Wai Chuen for making a false or misleading statement in its results announcement published in 2013.

Failure to disclose inside information

We commenced proceedings in the MMT against the following companies and persons for allegedly failing to disclose inside information as soon as reasonably practicable:

- Fujikon Industrial Holdings Limited and two of its directors⁸.
- Magic Holdings International Limited and its nine directors⁹.
- Health and Happiness (H&H) International Holdings Limited¹⁰ and Luo Fei, its chairman, chief executive officer and executive director.
- CMBC Capital Holdings Limited¹¹ and its six former directors and senior executives¹².



Evidence Management System team

Insider dealing and market manipulation

- The Court of Final Appeal (CFA) allowed the SFC's appeal against the MMT's findings that two former executives of Asia Telemedia Limited¹³, Charles Yiu Hoi Ying and Marian Wong Nam, had not engaged in insider dealing. The CFA set aside the orders made by the Court of Appeal (CA) and the MMT and remitted the matter back to the MMT to deal with sanctions.
- The CFA dismissed the appeal of Eric Lee Kwok Wa, a solicitor, and his sisters, Patsy Lee Siu Ying and Stella Lee Siu Fan against the judgment of the CA, thereby affirming the original determination that they had engaged in fraudulent or deceptive conduct in transactions involving the shares of Taiwan-listed Hsinchu International Bank Company Limited.
- The CA allowed our appeal against the decision of the 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, and ordered that the issue of dealing be remitted to the MMT for a re-trial.
- The Eastern Magistrates' Court convicted Au-Yeung Siu Pang, a former group finance manager of China CBM Group Company Limited, for two insider dealing offences. Au-Yeung was sentenced to four months of imprisonment and a fine of \$120,000.
- The MMT found that Samantha Keung Wai Fun, former CEO of China AU Group Holdings Limited¹⁴, and her acquaintances Wu Hsiu Jung and Chen Kuo Chen engaged in false trading in the shares of China AU. The MMT imposed cold shoulder orders and cease and desist orders against Keung, Wu and Chen. Keung was also subject to a disqualification order.

Intermediary misconduct

During the year, we disciplined 21 corporations, four responsible officers and 10 licensed representatives, resulting in total fines of \$940 million¹⁵. Key disciplinary actions included:

Deficient selling practices

- We reprimanded and fined BOCI Securities Limited \$10 million over its internal system and control failures. It failed to comply with regulatory requirements concerning client profiling, product due diligence and suitability assessment in its sale and distribution of investment products.
- 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.
- We reprimanded and fined Noah Holdings (Hong Kong) Limited \$5 million for internal system and control failures in its sale and distribution of investment products.

Anti-money laundering related breaches

- We reprimanded and fined Guosen Securities (HK) Brokerage \$15.2 million for failing to comply with anti-money laundering and counter-terrorist financing regulatory requirements when handling third party fund deposits and related internal control deficiencies.



¹³ Now known as Yunfeng Financial Group Limited.

¹⁴ Now known as SkyNet Group Limited.

¹⁵ Includes \$867.7 million in fines for sponsor failures. See page 66.

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Other disciplinary actions

Reprimanded and fined for internal control failures

Company	Breaches	Fine	Date
Hang Seng Investment Management Limited	Deficient internal controls and procedures for the cash management of SFC-authorized funds	\$3 million	31.5.2018
CN Capital Management Limited	Failure to maintain satisfactory internal controls for employee account dealing	\$1 million	24.4.2018
Instinet Pacific Limited	Deficient internal controls for its electronic and algorithmic trading systems and alternative liquidity pool	\$17.3 million	13.4.2018

Disciplined for mis-handling client money

Company/Name	Breaches	Action	Date
Kong Kar Bong	Misappropriated client money and forged an account statement	Banned from re-entering the industry for 10 years	11.12.2018
Lok Wai Fong	Unauthorised transfer of client money and failure to act on client instructions	Banned from re-entering the industry for life	8.10.2018
HPI Forex Limited	Failure to maintain client money in a segregated client account in Hong Kong and use of client money to conduct proprietary transactions overseas	Reprimanded and fined \$2 million	22.8.2018
Cham Nga Yin	Misappropriated client money	Banned from re-entering the industry for life	9.8.2018

Reprimanded and fined for other regulatory breaches

Company	Breaches	Fine	Date
FWD Life Insurance Company (Bermuda) Limited	Failure to comply with the key personnel requirements under the SFC Code on MPF Products and the Fund Manager Code of Conduct	\$2.4 million	8.1.2019
Ardon Maroon Fund Management (Hong Kong) Limited	Cross-trade failures in managing the Ardon Maroon Asia Master Fund	\$800,000	27.12.2018
SFM HK Management Limited	Failures in the short selling of Great Wall Motor Company Limited shares on behalf of a fund it managed	\$1.5 million	6.12.2018
Huatai Financial Holdings (Hong Kong) Limited	Failures in its short selling of Great Wall Motor Company Limited shares	\$800,000	17.9.2018
Citigroup Global Markets Asia Limited	Failures in the operation of its alternative liquidity pool	\$4 million	10.7.2018

Note: See Table 6 in Breakdown of SFC activity data on page 167 for details of the less significant disciplinary actions.

Other notable cases

- The CFA dismissed the appeal by Moody's Investors Service Hong Kong Limited of our disciplinary action concerning a special comment report published by Moody's in 2011.
- The CA dismissed the appeal by Andrew Left of Citron Research against the determination of the MMT on points of law under the SFO. This came after the rejection of a separate application for leave to appeal by Left against the determination of the MMT on questions of fact following the MMT's findings of misconduct in his publication of a research report on Evergrande Real Estate Group Limited in 2012.
- The CFI ordered three unlicensed entities¹⁶ to compensate 14 investors the sum of about \$600,000. These entities solicited investors to

open trading accounts and invest in securities and futures products. However, no trades were executed and investors were not able to recover their money.

- Hui Kwok Piu was convicted and fined \$231,000 for illegal short selling in the shares of Coslight Technology International Group Limited.
- We suspended the trading in the shares of China Ding Yi Feng Holdings Ltd and issued restriction notices to nine brokers¹⁷ prohibiting them from disposing of or dealing with assets held in client accounts related to suspected market manipulation in its shares. We are not investigating these brokers, which have cooperated with our ongoing investigation, and the restriction notices do not affect their operations or their other clients.

Putting the pieces together

The Case Intake Team plays a key role in ensuring we address serious threats to Hong Kong's financial markets. Set up in 2016 as part of a strategic review of the Enforcement Division, the team helps us focus on enforcement priorities and increase efficiency.

"When a case is referred to the team, we look at the facts and circumstances and weigh its importance according to our regulatory priorities, whether there is enough information and whether the problem is part of a larger issue," explained Anna Woo, Associate Director, Enforcement, who heads the team. If the senior management considers an investigation is warranted, it allocates the case to one of our specialised enforcement teams.

The team also reviews public complaints and Anna represents the Enforcement Division in our Complaints Control Committee^a. For her work in this role she received The Ombudsman's Awards 2018 for Officers of Public Organisations.

^a See Stakeholders on pages 77-81.

Cooperation and communication among team members and other colleagues have been key to her team's achievements, Anna added. "We strive to handle cases consistently and transparently and uphold the 'One SFC' approach."



Anna Woo (centre), Celeste Chong (left) and Avon Leung of the Case Intake Team

You have to look at each case with an open mind – it is like putting a puzzle together.

Anna Woo

¹⁶ Cardell Limited or Cardell Company Limited, Waldmann Asset Management and Doyle Hutton Associates.

¹⁷ The nine brokers are Futu Securities International (Hong Kong) Limited, GF Securities (Hong Kong) Brokerage Limited, Guotai Junan Securities (Hong Kong) Limited, Haitong International Securities Company Limited, Orient Securities (Hong Kong) Limited, SBI China Capital Financial Services Limited, Shenwan Hongyuan Securities (H.K.) Limited, Sun Hung Kai Investment Services Limited and Yunfeng Securities Limited.

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Updated fining guidelines

We updated our Disciplinary Fining Guidelines in August 2018 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.

Reporting misconduct

In October 2018, we conducted a campaign to raise public awareness about listed company fraud and market misconduct, as well as the importance of reporting misconduct to the SFC. We updated our "Have you seen these people?" webpage to encourage the public to help us locate individuals sought in enforcement-related inquiries or investigation.

Enforcement activities

	2018/19	2017/18	2016/17
S179 ^a inquiries commenced	26	24	27
S181 ^b inquiries commenced (number of letters sent)	294 (9,074)	261 (8,461)	301 (8,960)
S182 ^c directions issued	231	274	407
Investigations started	238	280	414
Investigations completed	243	254	591
Individuals/corporations charged in criminal proceedings	5	14	10
Criminal charges laid ^d	42	54	46
Notices of Proposed Disciplinary Action ^e issued	22	29	49
Notices of Decisions ^f issued	34	32	56
Individuals/corporations subject to ongoing civil proceedings	101	97	126
Compliance advice letters issued	234	277	548
Cases with search warrants executed	30	22	34

^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 the identity information of 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 The SFC brought a total of 42 criminal charges against four individuals and one corporation.

^e 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.

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

Note: Also see Table 7 in Breakdown of SFC activity data on page 168 for more details.