

Redress for investors

During the quarter, we commenced proceedings to freeze assets to remediate investors and to disqualify senior executives of a listed corporation.

- We alleged that Gu Chujun and eight other former senior executives of Greencool Technology Holdings Limited were involved in gross overstatements of the company's sales, profit, trade receivables and bank deposits, thereby inflating the company's net asset value and severely understating its bank loans in annual reports and results announcements released between 2001 and 2005.

Proceedings against Gu were commenced before the Court of First Instance (CFI) under section 213¹ of the Securities and Futures Ordinance (SFO), seeking an injunction to freeze assets beneficially owned by Gu up to about \$1.59 billion as well as an order for damages to compensate more than 1,300 minority shareholders. We believe that as the mastermind Gu should be ordered to compensate the minority shareholders who were induced to acquire the company's shares on the strength of the inflated financial results. We also instituted proceedings in the Market Misconduct Tribunal.

- We commenced proceedings in the CFI to seek disqualification orders against four senior executives of Minth Group Limited as well as orders that its Chairman pay \$99 million compensation and interest to Minth's subsidiary for loss or damage caused by his alleged misconduct. The four senior executives, including Chairman and Executive Director Chin Jong Hwa, were alleged to have breached their directors' duties regarding Minth's acquisitions of two companies in 2008 resulting in a loss to its subsidiary.

Ernst & Young ordered to produce accounting records

The CFI ordered Ernst & Young Hong Kong (EYHK) to produce to the SFC specified accounting records relating to its work as the reporting accountant and auditor for Standard Water Limited. In 2012, we brought proceedings to compel the production of these documents after EYHK failed to provide them as part of our investigation into the

proposed listing of Standard Water. EYHK claimed that it was not in possession of the papers and that they could not be produced due to restrictions under PRC law.

The CFI rejected these arguments, finding that EYHK had "deliberately withheld from SFC information in its knowledge" and EYHK's objection to produce the audit working papers based on state secrets is "a complete red herring". EYHK subsequently filed an appeal against the court order in relation to those documents kept in mainland China.

Seeking orders to compel disclosure

Following an urgent application to appoint interim receivers and managers over Qunxing Paper Holdings Company Limited, we made an application to the CFI to seek orders against its former Chairman and Vice-Chairman to compel them to provide information to Qunxing about its main operating company's bankruptcy proceedings in China.

The court also dismissed the application of Qunxing and its subsidiary to discharge the injunction obtained by the SFC in December 2013 freezing up to approximately \$2 billion of Qunxing's assets.

Criminal proceedings

During the quarter, we successfully prosecuted five individuals and two corporations.

- The court fined C.L. Management Services Limited and its sole owner and director Au Suet Ming Clarea \$1.5 million for unlicensed activities. Au was also sentenced to six months' imprisonment suspended for 18 months.
- Fan Kwong Hung Ernest was sentenced to 200 hours of community service and fined \$59,430 for manipulating the final calculated opening prices of Mini-Hang Seng Index futures contracts. He was also prohibited from dealing in Hang Seng Index or Mini-Hang Seng Index futures contracts in the pre-market opening period for six months without permission of the court.
- Ng Kai Shing was fined for providing false or misleading information to the SFC in two licensing applications.

¹ Section 213 of the SFO gives the SFC the power to apply to the CFI for an injunction and other orders when there are contraventions of the provisions of the SFO and specified provisions of the Companies Ordinance, etc.

- Pacific Sun Advisors Limited was fined and its director Andrew Pieter Mantel was sentenced to four weeks' imprisonment suspended for 12 months for issuing advertisements to promote a collective investment scheme without the SFC's authorization.
- Chan Wing Fai was sentenced to one month's imprisonment for false trading. He bought single board lots of shares of two companies to cause their prices to increase and profited by selling them at higher prices.

Disciplinary actions and resolutions

We disciplined eight licensed corporations through resolutions under section 201² of the SFO:

- ICBC International Capital Limited and ICBC International Securities Limited were reprimanded and fined a total of \$25 million in relation to their role in the initial public offering of Powerlong Real Estate Holdings Limited in 2009, when they failed to conduct customer due diligence or perform ongoing scrutiny of accounts of certain placees, ignoring their lack of independence. They agreed to implement the recommendations of an independent review of their systems and controls.
- The Royal Bank of Scotland PLC was reprimanded and fined \$6 million for internal control failures relating to the detection and prevention of unauthorised trading activities.
- Delta Asia Securities Limited was reprimanded and fined \$4 million for failing to ensure that client securities were properly safeguarded and allowing shares belonging to clients and held in segregated client accounts at the Central Clearing and Settlement System to settle transactions for other clients.
- Kaiser Securities Limited and Kaiser Futures Limited were reprimanded and fined a total of \$1.7 million for conducting unauthorised financial activities in breach of the laws of Macau.

- Deutsche Bank Aktiengesellschaft was reprimanded and fined \$1.6 million for failing to disclose to The Stock Exchange of Hong Kong Limited the changes to its percentage holdings in the issued share capital of a stock and to implement adequate internal controls.
- Citigroup Global Markets Asia Limited was reprimanded for failing to ensure that securities orders executed through its algorithmic trading system would not unduly affect market prices. It agreed to engage an independent reviewer to conduct a forward-looking assessment of its algorithmic trading system to ensure compliance with the new regulation on electronic trading.

We also disciplined seven licensed representatives:

- Two persons were banned from re-entering the industry for life following criminal convictions:
 - Chow Hoi Ching Helen, a former employee of The Royal Bank of Scotland N.V. (formerly known as ABN AMRO Bank N.V.), was convicted of fraud and sentenced to imprisonment of four years; and
 - Choy Cheuk Tung, a former employee of Standard Chartered Bank (Hong Kong) Limited, was convicted of theft and was sentenced to imprisonment of 18 months.
- Ma Chun Leung Christopher and Wong Man Chung were banned from re-entering the industry for 10 years and two years, respectively, for acting against the interests of clients and taking advantage of executions of institutional clients' orders. Ma also provided false or misleading information to his employer and caused his employer to provide the same to the SFC.
- Three other individuals were banned from re-entering the industry or suspended for various periods for conducting transactions on a discretionary basis without proper authorisation in client's accounts and other misconduct.

² Section 201 of the SFO provides that the SFC may resolve its disciplinary proceedings against regulated persons by reaching an agreement with them if it is in the interest of the investing public or in the public interest to do so.

SFC decisions upheld

The Securities and Futures Appeals Tribunal (SFAT) upheld our decisions in two cases.

- Chan Pik Ha Jenny, a former account executive of ICBC International Securities Limited, failed to record and maintain a proper audit trail of orders placed by her clients and accepted trade instructions from a third party without written authorisation.

The SFAT highlighted that internal controls prescribed by licensed corporations are not purely private guidelines between employers and employees, but an integral part of the regulatory system that governs the securities industry. A breach of such internal controls may be the subject of disciplinary action.

- Peter Leung, a former representative and responsible officer of China Securities Holdings Limited, was found to be responsible for his employer's order record failure and unlicensed activities by certain staff.

Surveillance work

We monitor trading activities in the securities and futures markets to detect market misconduct. During the quarter, we made 1,531 requests for trading and account records from intermediaries. On many occasions, our early inquiries stopped seemingly improper trading activities from continuing. In addition, we posted five high shareholding concentration announcements on the SFC website to remind investors to exercise caution when trading shares in companies where a small number of shareholders hold a high concentration of shares.

Enforcement activities

	Quarter ended 30.6.2014	Quarter ended 31.3.2014	Change (%)	Quarter ended 30.6.2013	YoY change (%)
Trading inquiries issued under S181 ¹	2,905	1,943	49.5	1,048	177.2
Investigations started	138	98	40.8	61	126.2
Investigations completed	59	81	-27.2	85	-30.6
Investigations completed within seven months (%)	44 (75%)	58 (72%)	-24.1	42 (49%)	4.8
Persons charged in criminal proceedings	7	2	250	7	0
Criminal charges laid	15	12	25	29	-48.3
Notices of Proposed Disciplinary Action ²	8	23	-65.2	7	14.3
Decision Notices ³	15	14	7.1	15	0
Persons subject to ongoing civil proceedings	77	69	11.6	63	22.2
Compliance advice letters issued	51	70	-27.1	53	-3.8

¹ 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.

² A Notice of Proposed Disciplinary Action is 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.

³ A Decision Notice sets out the SFC's decision and its reasons to take disciplinary action against regulated persons.