



## HKEX and SFC Disciplinary Actions in November to December 2021

Hong Kong's Securities and Futures Commission (**SFC**) and The Stock Exchange of Hong Kong (**HKEX**) brought a number of disciplinary actions against SFC-licensed intermediaries for regulatory breaches and against HKEX-listed companies for corporate misconduct in the last two months of 2021. The disciplinary actions included:

- charging individuals suspected of money laundering and market misconduct offences in ramp-and-dump schemes in an operation conducted jointly by the SFC, the Monetary Authority of Singapore and the Hong Kong and Singaporean police forces;
- fining a licensed intermediary HK\$8 million for failing to comply with AML/CTF and other regulatory requirements; and
- banning a licensed individual for life for dishonest conduct and misappropriation of funds.

## Hong Kong-Singapore joint operation against suspected cross-border ramp-and-dump syndicate<sup>1</sup>

The SFC conducted a joint operation with the Hong Kong Police Force (**HK Police**), the Monetary Authority of Singapore (**MAS**) and the Singapore Police Force against a sophisticated syndicate suspected of operating ramp-and-dump manipulation schemes in Hong Kong and Singapore. "Ramp-and-dump schemes" involve ramping up a listed company's share price and then dumping the shares at an artificially inflated price to profit from the offloading and constitute market misconduct under the Securities and Futures Ordinance (the **SFO**).

### Money laundering and market misconduct offences

During the joint-operation, 10 individuals believed to be the key members of the syndicate, their associates and some senior executives of Hong Kong listed companies were arrested and charged with money laundering offences in addition to specific market misconduct offences including false trading, market manipulation and disclosure of false or misleading information inducing transactions under Parts XIII and Part XIV of the SFO.

## Enforcement action against fraud and scams on online platforms

The case was referred to the MAS and the HK Police because of the cross-border element and the scale of the suspected money laundering offences. This was the first time the Singaporean and Hong Kong securities regulators and law enforcement agencies collaborated in combatting market misconduct. The case also highlights the SFC's determination to crack down on investment fraud and scams conducted on online platforms, such as social media ramp-and-dump schemes, and the SFC's ability to collaborate with other local and overseas law enforcement agencies and regulatory counterparts to tackle more complex cross-border cases.

## Failure to make timely disclosure of interest under Part XV of the SFO<sup>2</sup>

Wai Chun Holdings (**WC Holdings**) and its director, Mr. Lam Ching Kui (**Mr. Lam**), were charged with failure to make timely disclosures to the HKEX on 5 occasions in 2017 regarding their acquisition of shares in Chinese Strategic Holdings Limited (**CS Holdings**) in breach of Part XV of the SFO. Mr. Lam was interested in the shares of CS Holdings held by WC Holdings, which was a controlled corporation of Mr. Lam since he controlled more than a third of the voting rights at WC Holdings' general meetings.

## SFC disciplinary sanctions for non-disclosure

WC Holdings and Mr. Lam were convicted of disclosure of interests-related offences under Part XV of the SFO at the Eastern Magistrates' Court on 30 December 2021 and were fined a total of HK\$20,000 and ordered to pay the costs of the SFC investigation.

## SFC reprimands and fines Grand International Futures Co., Limited HK\$8 million and suspends its responsible officer for regulatory breaches<sup>3</sup>

### Failure to comply with anti-money laundering & counter-terrorist financing requirements

The SFC's investigation found that between October 2017 and October 2018, Grand International Futures Co., Limited (**GIF**), a company licensed under the SFO to carry on Type 2 (dealing in futures contracts) and Type 5 (advising on futures contracts) regulated activities, had failed to conduct any due diligence on the customer supplied systems used by 103 of its clients for placing orders. Customer supplied systems are trading software platforms developed for use by clients to conduct electronic trading through the internet, on mobile phones and other electronic channels.

The SFC also identified that the amounts of deposits made into four client accounts were incommensurate with their declared financial profiles and that GIF's failure to put in place an effective ongoing monitoring system to detect suspicious trading patterns in client accounts had led to its failure to detect over 100,000 self-matched trades in nine client accounts. Self-matched trades are trades where clients' orders are matched with their own orders in the opposite direction and are indicative of market manipulation under the SFC's Guideline on Anti-Money Laundering and Counter Financing of Terrorism (the **AML/CTF Guideline**) since they create the illusion of trading.

The SFC considered that these failures indicated the inadequacy and ineffectiveness of GIF's systems and controls for ensuring compliance with the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AML/CTF Ordinance**), the AML/CTF Guideline and the SFC Code of Conduct.

### Breach of responsible officer duties

Mr. Liang Benyou (**Mr. Liang**) had been a responsible officer of GIF for Type 2 and Type 5 regulated activities since October 2017 (when the due diligence failings commenced). He was also the company's manager in charge of overall management, business and operational control and review, compliance and I.T. functions from September 2017.

The SFC found that GIF's failures were attributable to Mr. Liang's failure to discharge his duties as a responsible officer and a member of the company's senior management. Mr. Liang had failed to ensure that the company diligently monitored its clients' activities and put in place adequate and effective AML/CFT systems and controls, which the SFC considers to be serious offences given their ability to undermine public confidence and damage the integrity of the market.

## SFC disciplinary sanction for failure to comply with AML/CTF requirements

To send a strong deterrent message to the market, the SFC reprimanded and fined GIF HK\$8 million for its failures to comply with AML/CTF and other regulatory requirements and suspended Mr. Liang's licence for eight months.

## SFC reprimands and fines Fulbright Securities Limited HK\$ 3.3 million<sup>4</sup>

### Failure to put in place adequate internal controls in respect of placing activities

The SFC found that Fulbright Securities Limited (**Fulbright**) failed to ensure there were adequate internal controls in respect of its placing activities and recording of client order instructions when acting as placing agent on a Hong Kong-listed company's share placement in August 2018. It found that Fulbright had not acted in the best interest of its clients during the placement and failed to exercise due skill, care and diligence and to continuously monitor its business relationship with its clients during the placement.

### Responsible officer's failures

During its investigation, the SFC found that Fulbright's failures were due to the failures of its responsible officer, Mr. Eric Liu Chi Ming (**Mr. Liu**), who was responsible for managing and supervising the company's business operations in regulated activities Type 1 (dealing in securities) and Type 4 (advising on securities) at the material time. He was found to have failed to discharge his duties as a responsible officer and a member of the company's senior management.

#### Breaches of Internal Control Guidelines and the Listing Rules

In addition to the August 2018 failings, the SFC also found that due to Mr. Liu's failures between November 2017 and July 2019, Fulbright had failed to:

- properly record and maintain the order instructions of 580 clients;
- effectively implement policies and procedures and supervise its account executives to ensure they complied with regulatory requirements when handling client orders;
- establish and maintain effective procedures for its client telephone orders to ensure compliance with telephone order requirements, such as the use of recorded telephone lines when taking order instructions from clients and to time stamp records of the order instructions;
- establish a standardised procedure for its telephone order compliance review and ensuring proper coordination between reviewers; report breaches of the telephone order regulatory requirements by its account executives to the SFC immediately after becoming aware of them;
- keep proper accounting, trading and other records to sufficiently account for all client assets received or held by it to ensure that all movements of client assets can be traced; and
- notify the SFC in writing within one business day after it became aware of its non-compliance with the above requirements.

The SFC found that these failures breached the SFC Code of Conduct as well as the SFC's Management, Supervision and Internal Control Guidelines (**Internal Control Guidelines**) and the Securities and Futures (Keeping of Records) Rules (**Keeping of Records Rules**).

SFC's disciplinary sanction for failure to comply with Internal Control Guidelines and the Keeping of Records Rules  
The SFC reprimanded Fulbright and fined it HK\$3.3 million under section 194 of the SFO for breaches of the Internal Control Guidelines and the Keeping of Records Rules and also suspended the licence of Mr. Liu for six months from October 2021 to April 2022.

## SFC bans responsible officer for seven months for supervisory failures<sup>5</sup>

Chu Chun Wai (**Mr. Chu**) was approved to act as Zhonghui International Futures Company's (**ZIFC**) responsible officer for Type 2 (dealing in futures contracts) regulated activity from 4 November 2016 to 9 June 2021 and also

acted as the company's manager in charge of overall management, risk management, business and operational control and review since 2017.

The SFC found that between May 2017 and July 2018, Mr. Chu (as responsible officer and executive director of ZIFC) failed to maintain appropriate standards of conduct, risk management and to adhere to proper procedures in respect of: (i) its clients' use of customer supplied systems to place orders; (ii) approval of client requests for setting up third party operated accounts; and (iii) monitoring suspicious transactions in client accounts.

### **SFC disciplinary sanction for supervisory failures**

While the SFC's disciplinary action against Mr. Chu is related to its ongoing disciplinary action against ZIFC and details of its sanction against Mr. Chu have not been disclosed, the SFC has suspended Mr. Chu's licence and banned him from practising for seven months (from December 2021 to July 2022).

### **SFC reprimands and fines Mason Securities Limited HK\$3.6 million for breaches of AML requirements<sup>6</sup>**

The SFC found that, between December 2014 and January 2015, Mason Securities Limited (**MSL**) (formerly known as GuocoCapital Limited) breached the AML/CTF Guidelines and requirements by failing to conduct proper customer due diligence prior to approving the opening of six client accounts using a non-face-to-face approach. No certification of client identity documents was carried out and documents were not certified by a suitable independent certifier, contrary to AML/CTF requirements.

The SFC also found that between May and July 2016, MSL failed to adopt reasonable measures in relation to the identification and handling of third party deposits in failing to identify 15 cheques issued by third parties which were deposited into five client accounts in breach of the AML/CTF Guidelines.

### **SFC disciplinary sanction for breach of AML/CTF requirements**

The SFC determined that MSL's breaches were due to its failure to ensure that proper safeguards were in place to mitigate the risks of money laundering and terrorist financing when identifying and handling third party deposits. There should have been adequate policies and procedures for identifying third party deposits but MSL had failed to put in place any such measures for an extensive period (since 2009).

To set a precedent and to deter similar misconduct in the market, the SFC reprimanded and fined MSL HK\$3.6 million.

### **SFC bans individual for life for misappropriating investors' funds<sup>7</sup>**

The SFC found that between May 2015 and September 2017 Poon Chun Hing (**Mr. Poon**) had misappropriated funds in an aggregate sum of HK\$160,000 from two investors who attended financial planning or accounting courses at which Mr. Poon was the instructor. Mr. Poon entered into investment-related agreements with the investors but did not make any investments in securities or futures for them and instead misappropriated the funds for his personal use and/or withdrew them.

### **SFC disciplinary sanction for misappropriation of funds**

Given Mr. Poon's dishonest conduct and doubts as to his integrity and character, the SFC considered that he was not fit and proper to be a regulated person. In view of the severity of Mr. Poon's conduct, the SFC banned him from the industry for life.

### **SFC bans licensed bank director from practising for 10 years<sup>8</sup>**

The SFC found that Ms. Wang Yu Ching (**Ms. Wang**), as a former senior relationship manager and director of the Bank of Singapore Limited (**BOS**) and Bank Julius Baer & Co. Ltd (**BJB**) and a registered individual for regulated activities Type 1 (dealing in securities) and Type 4 (advising on securities), had misrepresented her academic qualifications by using a false degree certificate in her employment applications to BOS (in 2012) and BJB (in 2018). It was also found that she presented copies of a falsified degree certificate to BOS on multiple occasions in 2019.

## SFC disciplinary sanction for misrepresentation of academic qualifications

Ms. Wang was deemed not fit and proper to be a regulated person by the SFC and was banned from re-entering the industry for 10 years for her dishonest conduct.

## HKEX disciplines Bonny International Holding Limited and two directors for HKEX Listing Rule breaches<sup>9</sup>

The HKEX found that Bonny International Holding Limited (**BIH**) had breached the HKEX Listing Rules by making significant prepayments to a connected party pursuant to various procurement agreements, which in substance constituted the provision of financial assistance to the connected party and advances to an entity.

Jin Guojun (**Mr. Jin**) and Zhao Hui (**Mr. Zhao**), executive directors of BIH, were responsible for the company's prepayments and were found to have breached their fiduciary duties to the company in failing to adequately safeguard its assets and ensure compliance with the HKEX Listing Rules.

### Prepayments amounting to advances to an entity and financial assistance to a connected party

BIH entered into 51 procurement agreements (**Agreements**) with Zhejiang Deshipu New Materials Technology Co., Ltd (**Deshipu**) and BIH paid Deshipu approximately RMB 250.8 million (**Prepayments**). Deshipu was an associate of Mr. Jin and therefore a connected entity of BIH. Of the 51 Agreements, 35 were cancelled shortly after they were signed (such that only 31% of orders were completed), and Deshipu subsequently refunded approximately RMB 220.6 million to BIH.

The HKEX determined that the Prepayments constituted advances to an entity which were disclosable under Chapter 13 of the HKEX Listing Rules and connected transactions since: (1) the amount of the prepayments was significant (nearly full prepayments for all purchase orders were made to Deshipu although only 31% of orders were completed);

(2) a review of historic orders prior to listing revealed that the number of purchase orders placed were significantly higher than the number of purchase orders previously made by BIH in its ordinary course of business; (3) orders placed were frequently cancelled and most cancellations were made shortly after the Agreements were entered into; and (4) post-cancellation, Deshipu only refunded the Prepayments after long periods, with the longest period being 183 days.

### SFC disciplinary action for breach of the HKEX Listing Rules and directors' fiduciary duties

As executive directors, Mr. Jin and Mr. Zhao had knowledge of and were responsible for the Prepayments but did not notify the board or obtain its approval for the transactions. BIH failed to comply with the announcement, circular, independent shareholders' approval and reporting requirements under Chapters 13, 14 and 14A of the HKEX Listing Rules. The directors should have been familiar with the HKEX Listing Rules and where appropriate, should have sought professional advice and/ or further clarification to fulfil their fiduciary duties to the company.

The HKEX publicly censured BIH and its executive directors and further directed each of the relevant directors to attend legal and regulatory training, including HKEX Listing Rule compliance.

## HKEX disciplines Zhejiang Prospect Company Limited, 10 directors and five supervisors<sup>10</sup>

The HKEX found that between 2017 and 2018, Zhejiang Prospect Company Limited (**ZPC**) entered into 28 transactions relating to the purchase of steel and/or bank acceptance bills (the **Transactions**) which involved an outflow of RMB 365.4 million by way of prepayments or guarantee deposits to counterparties, among which, some were connected or related to ZPC.

Each of the Transactions was cancelled within one month, following which the prepayments or deposits made by ZPC were refunded by the counterparties. It was found that the overall effect of the Transactions was analogous to ZPC providing revolving loans to the counterparties. In particular, four of the Transactions were marked as "Loan" in ZPC's bank statements.



## GEM Listing Committee's findings of breach

The Transactions were authorised by Fei Guo Yan (**Mr. Fei**), ZPC's executive director, but were not reported to the board. Moreover, appropriate steps were not taken to ensure compliance with the GEM Listing Rules, resulting in ZPC's failure to: (1) consult professional advisers on the GEM Listing Rule implications of the Transactions; (2) comply with the announcement, circular and shareholder approval requirements; and (3) publish various sets of financial results and annual reports to its shareholders as required subsequent to entering into the Transactions. The directors therefore failed to discharge their directors' duties in respect of conflicts of interest and the effectiveness of the company's internal controls.

## GEM Listing Committee disciplinary sanctions

The HKEX publicly censured ZPC and its directors and issued statements against a number of its directors (including Mr. Fei) that had they remained in office, their retention of office would have been prejudicial to investors' interests. Two of the directors were also ordered to attend directors' training.

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[1] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR125>

[2] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR132>

[3] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR130>

[4] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR107>

<https://apps.sfc.hk/edistributionWeb/api/news/openAppendix?lang=EN&refNo=21PR107&appendix=0>

[5] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR129>

[6] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR123>

[7] <https://apps.sfc.hk/edistributionWeb/api/news/openAppendix?lang=EN&refNo=21PR119&appendix=0>

[8] <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR118>

[9] [https://www.hkex.com.hk/News/Regulatory-Announcements/2021/211216news?sc\\_lang=en](https://www.hkex.com.hk/News/Regulatory-Announcements/2021/211216news?sc_lang=en)

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[10] [https://www.hkex.com.hk/News/Regulatory-Announcements/2021/211207news?sc\\_lang=en](https://www.hkex.com.hk/News/Regulatory-Announcements/2021/211207news?sc_lang=en)

[https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Disciplinary-and-Enforcement/Disciplinary-Sanctions/211207\\_SoDA.pdf?la=en](https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Disciplinary-and-Enforcement/Disciplinary-Sanctions/211207_SoDA.pdf?la=en)

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**CHARLTONS**  
易周律師行

**Hong Kong Office**

Dominion Centre 12th Floor  
43-59 Queen's Road East Hong Kong

[enquiries@charltonslaw.com](mailto:enquiries@charltonslaw.com)

[www.charltonslaw.com](http://www.charltonslaw.com)  
Tel: + (852) 2905 7888  
Fax: + (852) 2854 9596