



HKEx and SFC Disciplinary Actions June and July 2022

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The three HKEx disciplinary actions announced by The Stock Exchange of Hong Kong Limited (the **HKEx**) in June 2022 were in relation to (i) Great Wall Terroir Holdings Limited and its 11 directors for failing to inform its board of directors over certain transactions; (ii) Amber Hill Financial Holdings Limited and five former directors for failing to respond to an HKEx investigation; and (iii) Mingfa Group (international) Company Limited and four former directors for not reporting to its board of directors various discloseable and connected transactions.

The Securities and Futures Commission (**SFC**) also announced three SFC disciplinary actions in June 2022. The first SFC disciplinary action was in relation to CES Capital International (Hong Kong) Co, Limited for failures in managing private funds. The second SFC disciplinary action was in relation to China Everbright Securities (HK) Limited for breaches of certain anti-money laundering regulatory requirements. The third SFC disciplinary action was in relation to Maxim Capital Limited and Maxim Trader for failing to pay certain investors their monthly returns.

HKEx Disciplinary Action In Relation To HKEx Listed Great Wall Terroir Holdings Limited (Stock Code: 0524) and 11 Directors

On 15 June 2022, the HKEx censured Great Wall Terroir Holdings Limited (**GWTHL**) and eight other former directors, criticised three other former directors, and directed the aforementioned former directors to attend training on regulatory and legal topics and Listing Rule compliance. The HKEx's statement of disciplinary action is available [here](#).

Disciplinary Action For Uninformed Notifiable and Connected Transactions in Hong Kong

GWTHL acquired a PRC company in 2016. After the acquisition, GWTHL did not appoint any of its representatives to the subsidiary company's board of directors, and the subsidiary was entrusted to manage its own day-to-day operations. Between 2016 and 2019, there were a number of notifiable and connected transactions carried out by the subsidiary but the board of directors of GWTHL was not explicitly informed.

In between 2016 and 2018, there were a total of five agreements with three companies under which the subsidiary provided certain services to. However, two directors of the subsidiary owned significant equity interests in the three companies that the subsidiary was conducting business with, rendering those companies as connected persons of GWTHL and the service agreements to be connected transactions.

Between July 2016 and December 2018, the subsidiary also provided interest-free advances to one of the companies before and another PRC company, and also to one of the previous directors of the subsidiary, which

was subsequently converted into a one-year loan in December 2018. This director held a 51% interest in the PRC company that was the subject of the advances, and therefore was a connected person of GWTHL. These advances and the loan constituted continuing connected transactions of GWTHL, as well as a discloseable transaction and an advance to an entity under Rule 13.13 of the Listing Rules.

GWTHL was required to, but did not, comply with the reporting, announcement, independent shareholders' approval and annual disclosure requirements under the Listing Rules in respect of the service agreements, the advances and the loan.

As such, the HKEx found that GWTHL breached Rules 13.13, 14.43, 14A.34, 14A.35, 14A.36, 14A.46 and 14A.49; while all the former directors above breached their Director's Undertakings to comply with the Listing Rules to the best of their abilities and use their best endeavours to procure GWTHL to comply with the Listing Rules.

HKEx Disciplinary Action In Relation To Five Former Directors of HKEx Listed Amber Hill Financial Holdings Limited (Stock Code: 33)

On 16 June 2022, the HKEx imposed a prejudice to investors' interests statement in relation to five former directors of Amber Hill Financial Holdings Limited (**Amber Hill**), stating that it was in the HKEx's opinion, had the five former directors remained on the board of directors of Amber Hill, the retention of office by them would have been prejudicial to the interests of investors. The HKEx's statement was made in addition to a public censure in relation to each of the five former directors. The HKEx's statement of disciplinary action is available [here](#).

Disciplinary Action For A Lack of Response From HKEx Listed Issuer and Its Directors in Hong Kong

The Listing Division of the HKEx had sought to conduct an investigation into whether or not the directors of Amber Hill had breached the Listing Rules. For the investigation, the Listing Division sent various enquiry letters and reminder letters to the relevant directors but received no response from them. The lack of response led to the breach of the Directors' Undertaking by both failing to cooperate with the Listing Division in the investigation and by hindering the proper discharge of the HKEx's function in maintaining and regulating an orderly market.

HKEx Disciplinary Action In Relation To Four Former Directors of HKEx Listed Mingfa Group (International) Company Limited (Stock Code: 846)

On 27 June 2022, the HKEx censured Mingfa Group (International) Company Limited (**Mingfa**) and two former executive directors (i.e. Mr Wong and Mr QZ Huang), and imposed a prejudice to investors' interests statement in relation to a further two former executive directors (Mr LC Huang and Mr LS Huang). The HKEx also directed Mr LC Huang and Mr LS Huang to attend 24 hours of training on regulatory and legal topics, including on Listing Rule compliance. The HKEx's statement of disciplinary action is available [here](#).

Mingfa and the relevant directors had agreed to settle this disciplinary action. They admitted their respective breaches (which are set out below) and have accepted the sanctions and directions imposed on them by the HKEx.

Disciplinary Action For Discloseable and Connected Transactions Not Reported to the Board Of Directors in Hong Kong

From 2013 to 2015, Mingfa entered into several agreements involving loans and disposals of assets with some of them being viewed by the SFC as breaching the Listing Rules.

In December 2013, Mingfa entered into eight contracts to sell the use of rights of eight villas to Mr Wong and Mr QZ Huang and their family members as well as the family members of the other two directors (i.e. Mr LC Huang and Mr LS Huang) for a sum of RMB 189 million. This constituted a connected transaction of Mingfa in which Mingfa failed to comply with the announcement requirements under Chapter 14A of the Listing Rules. There also was a requirement for full payment to be paid by late December 2013 but the consideration was not fully paid until December 2015.

In December 2014, Mingfa and a purchaser entered into an agreement where Mingfa agreed to sell 51% equity interest in a subsidiary to the purchaser for RMB 663 million. This disposal was subsequently terminated in September 2016. The purchaser, who was a cousin of the four relevant directors, was deemed to be a connected person of Mingfa and the intended disposal constituted a discloseable and connected transaction of Mingfa. Mingfa therefore failed to comply with the requirements for announcement and independent shareholder approval under Chapters 14 and 14A of the Listing Rules. Mr Wong approved and signed the equity transfer contract on Mingfa's behalf; and while the other three directors knew about this, the rest of the board of directors did not.

In January 2013, Mingfa entered into two framework agreements with two counterparties that belonged to Mr

Chen, Mr Wong's brother-in-law. The agreement provided that the parties could borrow money from each other during a term of five years and the loans would bear an interest rate of 20% above the bank rate at the time, payable at the end of the five-year term. Between 2013 and 2017, Mingfa had borrowed and advanced loans from and to entities related to Mr Chen pursuant to the framework agreements. The agreements were negotiated, approved, and signed by Mr Wong without notifying the board of directors of Mingfa. The agreements were also kept by Mr Wong and were not provided to Mingfa's auditor until March 2016. Mr Wong, Mr QZ Huang, and Mr LC Huang had approved the repayments of the loans borrowed by Mingfa in accordance with the framework agreements. None of the other directors knew about these framework agreements before March 2016.

In November 2015, Mingfa entered into a tripartite agreement with two main contractors and one sub-contractor where the parties agreed to partially settle the debts in the sum of RMB 644 million out of RMB 743.11 million owed by Mingfa to the two main contractors. The arrangement involved transferring the use rights of 42 villas developed by Mingfa to the sub-contractor (whom the two main contractors were indebted to). The sub-contractor would then assign Mr Chen and the aforementioned purchaser to take up the 42 villas. Upon entering into further agreements, the 42 villas were subsequently taken up by Mr Chen and the purchaser in December 2015. Mr Wong approved the arrangement and was responsible for negotiating and approving the agreements in relation to the sale of the 42 villas. Before entering into the sale of the 42 villas, no professional valuation was conducted to assess the value of the villas.

In 2015, Mingfa entered into another agreement where it transferred its equity interest in Chengdu Menggu, a wholly-owned company to an entity owned by Mr Chen and subsequently to a third party company. The consideration for the transfers were paid by and returned back to Mingfa. Mingfa also did not obtain any collateral from the transferees at the time of the transfers. In December 2017, the third party company said that it would transfer Chengdu Menggu back to Mingfa at nil consideration. All of these transactions were approved by Mr Wong, and none of the other directors had known or was aware of the Chengdu Menggu transfers or the related agreements and payments.

In March 2015, Mingfa entered into a strategic cooperation with Wuxi Sanyang and a guarantor in relation to Mingfa's intended investment in a property being built by Wuxi Sanyang. However, no due diligence was conducted on the matter and a deposit of RMB 15 million was made to Wuxi Sanyang. Under the cooperation agreement, Wuxi Sanyang was required to return the deposit after 15 months if the investment did not materialise. Subsequently, no investment opportunity did materialise and Wuxi Sanyang went into liquidation. Mingfa only managed to recover approximately RMB 2.3 million from the administrator in 2018.

Mingfa also failed to publish/dispatch many¹ interim and annual results and reports within the deadlines required under Chapter 13 of the Listing Rules. At the time of these transactions, the abovementioned four directors were in charge of Mingfa's overall management and operations.

With regards to all the discrepancies for the above fund flows, both Ernst and Young (China) Advisory Limited and BDO Financial Services Limited (**BDO**) found deficiencies in Mingfa's internal controls. They found that Mingfa had no written contract management procedures and did not have reconciliation procedures for large transactions. In addition, they found that (i) Mingfa did not have a conflict of interest policy requiring employees to declare existing and potential conflicts; (ii) the list of connected persons and notifiable transactions were not distributed to Mingfa's subsidiaries; (iii) there was no written agreement requirement for loan transactions between Mingfa and its directors, no written financing management policy, nor any retention of assessment and approval records on loan and contract terms; and (iv) Mingfa did not keep its internal audit reports.

As a result, BDO recommended a number of remedial measures to Mingfa, which the board of directors agreed to adopt to address the internal control deficiencies identified. These were then implemented according to Mingfa's announcement of 30 April 2019.

Disciplinary Action For Breach of HKEx Listing Rules in Hong Kong

From all the above, the Listing Committee found that Mingfa breached the following Listing Rules:

- (a) Rules 14.34, 14A.35, and 14A.36 for the intended disposal;
- (b) Rule 14A.35 in respect of the sale of 8 villas; and
- (c) Rules 13.46(2)(a), 13.49(1), and 13.49(6) in respect of the annual results and reports of Mingfa.

Mr Wong breached Rule 3.08 of the Listing Rules and his Directors' Undertaking to comply with the Listing Rules to the best of his ability in relation to the intended disposal, the sale of the villas, the framework agreements and the Chengdu Menggu transfers and to use his best endeavours to procure Mingfa's compliance with the Listing Rules.

Mr QZ Huang breached Rule 3.08 of the Listing Rules and his Directors' Undertaking to comply with the Listing Rules to the best of his ability in relation to the intended disposal, the sale of 8 villas, and the framework agreements, and to use his best endeavours to procure Mingfa's compliance with the Listing Rules.

Mr LC Huang breached Rule 3.08 of the Listing Rules and his Directors' Undertaking to comply with the Listing Rules to the best of his ability in relation to the intended disposal, the sale of 8 villas, the framework agreements and the Wuxi Sanyang investment and to use his best endeavours to procure Mingfa's compliance with the Listing Rules.

Mr LS Huang breached Rule 3.08 of the Listing Rules and his Directors' Undertaking to comply with the Listing Rules to the best of his ability in relation to the intended disposal and the sale of 8 villas and to use his best endeavours to procure Mingfa's compliance with the Listing Rules.

Hong Kong Court Orders In Relation To Maxim Capital Limited and Maxim Trader to Pay Investors Damages Due To Misconduct

On 7 June 2022, following legal proceedings brought by the SFC under section 213 of the Securities and Futures Ordinance (**SFO**), the Court of First Instance (**CFI**) ordered Maxim Capital Limited and Maxim Trader (collectively **Maxim**) to pay investors for failure to pay monies back to investors who had invested in Maxim's investment schemes. The CFI case can be found [here](#).

Misrepresentations and Subsequent Injunctions Ordered By the Hong Kong Court Because of Misconduct in Hong Kong

In February 2014, the SFC received complaints from investors about Maxim's investment scheme. The SFC subsequently conducted an investigation into the matter and found that Maxim was never licensed by the SFC to carry on any regulated activity and Maxim had made various inaccurate representations (such as being listed on the New York Stock Exchange) in their websites and social media as well as in their seminars and materials distributed during the seminars.

In November and December 2015, the SFC obtained interim injunction orders against Maxim freezing their monies worth approximately HK\$23.5 million and prohibiting Maxim from carrying on any business in relation to regulated activities as defined in the SFO.

Further, the SFC alleged that Maxim contravened sections 109(1) and 114(1)(b)² of the SFO, and sought relief pursuant to section 213(2) of the SFO to restore parties to their relevant financial position prior to the transactions.

Hong Kong Court Judgement In Relation To Unlicensed and Unregistered Companies

Maxim was held to have contravened section 114(1)(b) of the SFO by holding themselves out as carrying on a business in regulated activities, whilst unlicensed and unregistered and without reasonable excuse. They also contravened section 109(1) of the SFO by knowingly issuing an advertisement in which they had held themselves out as being prepared to carry on the specified regulated activities, whilst unlicensed and unregistered.

As a result, the court ordered Maxim not to hold themselves out as carrying on a business in Hong Kong in relation to regulated activities as defined in the SFO. Injunction orders were also granted to prohibit Maxim from issuing, publishing, circulating, distributing and/or disseminating any advertisement; to dispose of the monies in its bank account; and to suspend all their websites.

Further, Maxim was also ordered to pay back the investors affected by their misconduct on a pro rata basis.

SFC Disciplinary Action To Reprimand and Fine China Everbright Securities (HK) Limited for HK\$3.8 Million

On 16 June 2022, the SFC publicly reprimanded and fined China Everbright Securities (HK) Limited (**CESL**) HK\$3.8 Million for failures to implement adequate and effective internal anti-money laundering and counter-financing of terrorism (**AML/CFT**) systems and controls to guard against and mitigate the risks of money laundering and terrorist financing associated with third party deposits between January 2015 and February 2017. The SFC's statement of disciplinary action is available [here](#).

Disciplinary Action For Failure to Identify Third Party Deposits in Hong Kong

In that 2 year period between January 2015 and February 2017, the SFC reviewed 234 samples of client deposits and found that 76% of them were deposited by third parties but only one was identified by CESL as being a third party deposit. All these deposits amounted to over HK\$250 million.

CESL claimed that it had procedures to identify third party deposits made through its designated pool accounts maintained with various banks. However it was discovered that the procedures did not apply to client deposits made through the sub-accounts maintained by CESL with a local bank. Instead, CESL would only conduct a monthly review where its compliance team would randomly select up to 25 client deposits in the sub-accounts and request

the local bank to provide supporting documents for the selected deposits.

The SFC formed a view that such monthly review was deficient in that the review was performed after the deposits had already been accepted and that the sampling size was limited. Moreover, the local bank did not produce any written replies back to CESL.

Disciplinary Action For Suspicious Client Fund Deposits in Hong Kong

The SFC managed to identify suspicious fund deposits during its investigation into the matter. It found that:

- (a) 11 clients received five or more deposits from multiple third parties, whose relationships with the clients were unknown;
- (b) the amount of net deposits received by seven clients were not commensurate with their estimated net assets. In two cases, the net amount of funds deposited into the client accounts exceeded 12 and 14 times their estimated net assets; and
- (c) in one instance, five clients, who did not appear to have any relationship with each other, received a total of approximately HK\$5 million from the same third party within four days, and they used the funds to trade in the same stock.

Despite all these, CESL did not detect anything suspicious nor had made any enquiries into the matters.

Breach of The Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO) and SFC Code of Conduct

With the above failures, CESL thus breached sections 23, 5(1)(b), and 5(1)(c) of Schedule 2 of the AMLO. CESL also breached paragraphs 2.1, 5.1(b), 5.1(c), 5.10, 5.11, 7.11, 7.14, and 7.39 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (April 2015 Edition) (**AML Guideline**) and General Principle 3, General Principle 7, and paragraph 12.1 of the SFC Code of Conduct for Persons Licensed by or Registered with the SFC (**SFC Code of Conduct**).

The SFC is of the view that CESL is guilty of misconduct and has thus reprimanded and fined CESL for HK\$3.8 million.

SFC Disciplinary Action To Reprimand and Fine CES Capital International (Hong Kong) Co., Limited for HK\$3.2 Million

On 27 June 2022, the SFC publicly reprimanded and fined CES Capital International (Hong Kong) Co., Limited (**CESHK**) HK\$3.2 million for failure to discharge its duties as an investment manager of two funds between February 2015 and July 2017. It failed to perform sufficient due diligence and monitor the funds' underlying investments; and failed to keep a proper audit trail of the due diligence and monitoring allegedly performed on the funds and their underlying investments. The SFC's statement of disciplinary action is available [here](#).

Background and Facts

CESHK was appointed by Worldwide Opportunities Fund SPC (**WOF**) to be the investment manager of two funds. These two funds were Evergreen Growth Saver SP (**EGSSP**) from February 2015 to January 2018 and Hong Kong Investment Fund SP (**HKIFSP**) from March 2016 to January 2018. The investment purpose of the two funds was to provide shareholders with a structured investment return by investing substantially all its assets in acquiring the participating shares of a Cayman incorporated underlying company, "*Real Estate and Finance Fund*".

In March 2016, WOF's directors passed a resolution to revise the investment mandate so that the underlying company for EGSSP from Real Estate and Finance Fund to another Cayman incorporated underlying company named "*Evergreen Growth Saver*", and stipulated that Evergreen Growth Saver could invest in, among other things, derivatives and listed/unlisted equities. The HKIFSP was similarly amended so to allow Real Estate and Finance Fund to invest in, among other things, derivatives and listed/unlisted equities. These amendments are collectively referred to as the **Mandate Change**.

Failures as Investment Manager in Hong Kong

As the assets of EGSSP and HKIFSP were invested exclusively in the underlying companies, the values of the funds were almost entirely dependent on the performance of the underlying companies as well as subject to the risks of the underlying companies' investments. As such, CESHK should have managed the funds' assets and monitored the performance of their investments by performing due diligence on the underlying companies to understand their background, business, and underlying investments and assets, as well as ongoing monitoring of the underlying companies' performance and risk exposure.

CESHK however conducted minimal due diligence on the underlying companies and had limited or no information about the underlying companies' investments and assets and their respective holdings in them. CESHK also believed that its main role was to ensure that the funds' assets were invested properly in the underlying companies and that it did not have the obligation or right to obtain information to determine the underlying companies' underlying investments and assets.

Though CESHK claimed that it had asked WOF for information about the underlying companies' underlying investments after the Mandate Change, CESHK was not able to produce any record to support this assertion nor specify when the enquiries were made. Although CESHK had been provided with valuation reports for some real properties, there was no evidence that CESHK had taken any steps to confirm the relationships between the properties and the underlying companies nor was there any evidence to ascertain the remaining assets, investments and liabilities in the underlying companies' portfolios.

In terms of monitoring the performance of the funds, CESHK only confirmed the figures in the draft fund valuation reports to be consistent with the funds' subscription/redemption and share transfer records and recalculated the valuations to make sure they were correct arithmetically. CESHK had no knowledge of what the underlying companies' true values were.

CESHK was also unable to produce any record of the alleged regular meetings within its asset management department to review the performance of the funds or any discussions held in the alleged meetings. The monthly reports also just dealt with data on the market in general terms and did not provide any analytical views on how the market would affect the funds.

From 30 September 2016 to 30 November 2016, CESHK claimed that it learnt that the net asset value per share of EGSSP fell from HK\$2,251.987 to HK\$546.873. It then made enquiries with WOF's directors who explained that the price drop was due to a price drop in the underlying company's portfolio. CESHK did not take any further action. However, the alleged discussion could not be proved as no record could be produced. It was not until August 2017, after the SFC conducted a limited review on CESHK's role as investment manager, that CESHK began to take active steps to make enquiries with WOF and the underlying companies' management about the underlying companies' underlying investments and price fluctuation.

SFC's View On Failures and Breaches Of CESHK

As a result of the failures and breaches of CESHK, the SFC formed the view that CESHK failed to perform its duties sufficiently. It breached paragraph 1.2(d) of the SFC Fund Manager Code of Conduct (the second edition dated January 2014), and section VIII of the SFC Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the SFC. CESHK's failures set out above cast doubt on its ability to carry on regulated activities competently and the SFC called into question its fitness and properness to remain licensed. As a result, a public reprimanding and a fine of HK\$3.2 million was imposed on CESHK.

HKEx and SFC Disciplinary Actions July 2022

In July 2022, the HKEx announced two HKEx disciplinary actions. The first HKEx disciplinary action was in relation to six former directors of China Creative Global Holdings Limited (Stock Code: 1678) for failing to respond to the HKEx Listing Division's enquiries. The second HKEx disciplinary action was in relation to Enterprise Development Holdings Limited (Stock Code:1808) and a former executive director for not conducting proper due diligence in the appointment of the aforementioned former executive director.

The SFC announced five disciplinary actions in July 2022. The first SFC disciplinary action was in relation to Lam Ki Fung for fraudulently obtaining his employer's quarterly incentive payment. The second SFC disciplinary action was in relation to RBC Investment Services (Asia) Limited for failing to segregate client money as required under the Securities and Futures (Client Money) Rules on numerous occasions and also breaching the Securities and Futures (Client Securities) Rules. The third SFC disciplinary action relates to the fining of RIFA Futures Limited HK\$9 million for Hong Kong regulatory breaches. The fourth SFC disciplinary action was in relation to KTF Capital Management Limited for breaching Hong Kong financial resources rules. The fifth SFC disciplinary action saw the SFC collaborate with the Hong Kong Monetary Authority (the **HKMA**) to ban Chan Ka Hey for six months.

HKEx Disciplinary Action In Relation To Six Former Directors of HKEx Listed China Creative Global Holdings Limited (Stock Code: 1678)

On 14 July 2022, the HKEx publicly censured and imposed a director unsuitability statement in relation to six former directors of China Creative Global Holdings Limited (**CCGHL**). These six former directors of CCGHL were (i) Mr Chen Fang Lin (**Mr Chen**), a former executive director and former Chairman of the company; (ii) Mr Shen Jian Zhong (**Mr Shen**), a former executive director; (iii) Mr Zheng He Bin (**Mr Zheng**), a former executive director; (iv) Ms Hui Sai Ha (**Ms Hui**), a former executive director; (v) Mr Huang Song Qing (**Mr Huang**), a former independent non-executive director; and (vi) Mr Dai Jian Ping (**Mr Dai**), a former independent non-executive director. A director

unsuitability statement is a public HKEx statement that lists out each of the directors which, in the opinion of the HKEx, are unsuitable to occupy a position as director or hold a senior management position in a listed company in Hong Kong or any of its subsidiaries. The HKEx's Statement of Disciplinary Action is available on the HKEx's website [here](#).

Failure to Respond to HKEx Enquiries

Trading in CCGHL's shares on the HKEx was suspended in September 2020 pending publication of its financial statements and interim results. In December 2020, CCGHL announced that its major subsidiary had been wound up by a Hong Kong Court and that the certain shares of the subsidiary in China had been disposed of. Between August 2020 and January 2021, the HKEx made enquiries in relation to the circumstances surrounding the situation but CCGHL failed to respond to any of the enquiries.

CCGHL then announced in May 2021 that Mr Shen, Mr Zheng, Mr Chen, and Mr Huang had been suspended as directors as well as all other roles within CCGHL for their possible involvement in the events relating to the winding up of its subsidiary. All of the directors were subsequently removed as directors from CCGHL after the announcement.

The HKEx sought to conduct an investigation into whether any of the relevant directors had breached the HKEx Listing Rules but failed to receive any response whatsoever save from Ms Hui's confirmation telephone call that she had received a reminder letter.

Under the HKEx Listing Rules, every director must provide to the HKEx a Declaration and Undertaking with regard to Directors (**Directors' Undertaking**) that they shall cooperate in any investigation conducted by the HKEx and provide up-to-date contact details.

Findings of Breach of the HKEx Listing Rules

The HKEx therefore determined that the six directors having breached their Directors' Undertakings and that the breach was serious. For this reason, the six directors were imposed the sanctions set out above.

HKEx's Disciplinary Action In Relation To HKEx Listed Enterprise Development Holdings Limited (Stock Code:1808) and a Former Director

On 18 July 2022, the HKEx imposed a prejudice to investors' interests statement in relation to Ms Mao Jun Jie (**Ms Mao**), a former executive directors of Enterprise Development Holdings Limited (**EDHL**), and publicly censured both Ms Mao and EDHL. A copy of the HKEx's Statement of Disciplinary Action is available on the HKEx website [here](#).

Unsubstantiated and Misleading Biographic Information of Director of HKEx Listed Company

In December 2020, Ms Mao was appointed as executive director of EDHL which was announced three days later in early January 2021. The term of her employment was 3 years with a monthly remuneration of HK\$300,000 and she was also entitled to an annual discretionary performance bonus. The announcement contained purported biographical information of Ms Mao including, *inter alia*, that:

- (i) Ms Mao had held senior positions in well-known companies and at different international financial institutions;
- (ii) Ms Mao had participated in and completed various IPO projects in Hong Kong, Canada and China; and
- (iii) Ms Mao had extensive experience in stock and bond analysis, trading and portfolio construction, currency trading, non-performing asset investment, quantitative research and derivative trading. (This statement was repeated at the 28 May 2021 annual general meeting.)

There were complaints to the HKEx concerning the truth of the above purported biographic information of Ms Mao and the HKEx made enquiries to EDHL, following which EDHL made a clarification announcement disclosing that Ms Mao's remuneration was to be adjusted to HK\$2 million per annum (around a 55.5% reduction), plus the discretionary bonus.

EDHL admitted that the purported biographical information could not be verified and that Ms Mao's appointment and her remuneration had not been properly considered. The directors of EDHL at that time were simply informed about the appointment of Ms Mao by the company secretary and no separate Board, Nomination or Remuneration Committee meeting was convened for the purposes of discussing Ms Mao's appointment. EDHL had not considered any other candidates at the material time.

Ms Mao resigned as an executive director of EDHL on 8 November 2021. During the HKEx's investigation, Ms Mao

acknowledged that “she was relying on her own interpretations of certain phrases at the material time”, which “might not be in line with the commonly adopted meanings in Hong Kong”.

HKEx Listing Rule Breaches For Inaccurate, Incorrect And/Or Misleading Information

The HKEx found that EDHL breached HKEx Listing Rule 2.13(2) by publishing inaccurate, incorrect, and/or misleading information about Ms Mao in the announcement relating to her appointment as a director and in the annual general meeting. Moreover, Ms Mao breached her duties under HKEx Listing Rule 3.08 and her Directors’ Undertaking by (a) providing inaccurate, incorrect, and/or misleading information to EDHL; and (b) failing to procure EDHL’s compliance with HKEx Listing Rule 2.12(2) in respect of the directors’ appointment announcement and the annual general meeting notice.

By way of settlement, EDHL and Ms Mao accepted their respective breaches under the HKEx Listing Rules and the sanctions imposed on them by the HKEx. EDHL also agreed to publish an announcement regarding, *inter alia*, the failure by the other members of the Board at the relevant time to (i) ensure that proper due diligence was conducted on Ms Mao; (ii) ensure that there was consideration of the proposed directors appointment and remuneration of Ms Mao by the Board and the Nomination and Remuneration Committees; (iii) procure EDHL’s compliance with HKEx Listing Rule Rule 2.13(2) in respect of the directors appointment announcement and the annual general meeting notice; and (iv) safeguard the company’s interests in respect of the determination of Ms Mao’s remuneration as a director.

SFC Bans Lam Ki Fung for Three Years Due to Criminal Charge of Conspiracy To Defraud

On 18 July 2022, the SFC banned Lam Ki Fung (**Lam**) for three years following criminal convictions of Lam and his mother. They were found guilty by the Eastern Magistrates’ Court of Hong Kong for conspiring to fraudulently obtain a quarterly incentive payment from his employer.

Lam was a business development officer at Standard Chartered Bank (Hong Kong) Limited (**Standard Chartered Bank**) and had opened payroll accounts for customers where his mother procured five customers, which Lam opened payroll accounts for. His mother then transferred monies ranging from HK\$80,000 to HK\$200,000 from her personal bank account into the five payroll accounts with a view to improving her son’s work performance at Standard Chartered Bank.

Lam later transferred these payments back into his mother’s personal bank account without the five customers’ authorisation or knowledge. As a consequence of these actions, Standard Chartered Bank paid Lam an additional quarterly incentive of HK\$4,520 attributed to his increase in performance.

Lam and his mother were subsequently convicted on a joint charge of conspiracy to defraud on 29 March 2021 and Lam was sentenced to 160 hours of community service on 21 April 2021.

The SFC considers Lam not a fit and proper person to be licensed or registered to carry on regulated activities due to his criminal conviction. As a result, he will be banned for three years from 12 July 2022 to 11 July 2025.

SFC Reprimands and Fines RBC Investment Services (Asia) Limited HK\$7.7 Million for Mishandling Client Assets

On 20 July 2022, the SFC reprimanded RBC Investment Services (Asia) limited (**RBC**) and fined RBC HK\$7.7 million for failing to segregate client money and transferring client securities without clients’ authority. The SFC’s Statement of Disciplinary Action is available on the SFC website [here](#).

Multiple Failures Of RBC Relating To Segregating Client Money and Transferring Client Securities Without Clients’ Authority

Between January 2019 and August 2020, RBC self-reported several incidents where it failed to segregate client money and transfer of client securities without standing authority from its clients, which breached the Securities and Futures (Client Money) Rules (**Client Money Rules**) and the Securities and Futures (Client Securities) Rules (**Client Securities Rules**). The SFC then conducted an investigation into these incidents.

The SFC’s investigations found that between January 2018 and August 2020, RBC had failed to segregate client money on 86 different occasions with the individual transaction amounts ranging from HK\$146 to HK\$52 million. Details of the failures to segregate client monies are set out below:

- (i) 68 occasions of intra-day transferring of monies from its client segregated account to its house account for settling loan repayments, making intra-group payments, and payroll funding out of convenience. Daily adjustments would then be made at 4pm on the same day to make sure that the appropriate amount of client monies were segregated. This practice breached section 5(1) of the Client Money

- Rules. RBC understood that this practice was adopted by its staff since at least 2000;
- (ii) 11 incidents of calculation errors where client monies were under-segregated because of an inadvertent deletion of a summation formula in a spreadsheet template. This breached section 4(4) of the Client Money Rules;
 - (iii) on five occasions, RBC failed to pay dividends received from RBC's house account to its client segregated account within one business day after receipt of the dividends, breaching section 4(4) of the Client Money Rules. This was caused by both a system failure and from human error;
 - (iv) there was an incident where a maker³ noted to a checker that he had omitted to add a deposit of client money to the spreadsheets for calculating after passing them on to the checker for review. However, the checker then only updated one relevant spreadsheet but failed to update the other. The two spreadsheets were needed together to calculate the daily client fund segregation amount. The result of this was that there was an under-segregation of HK\$48.5 million in the client segregated account, breaching section 4(4) of the Client Money Rules; and
 - (v) in January 2018, there was an incident where an RBC staff made a manual error by using the RMB balance on the wrong date to determine the amount of client money required to be segregated, resulting in an under-segregation of around RMB18,000, breaching section 4(4) of the Client Money Rules. The error was caused by a maker, but it was not detected by the checker.

There were also failures to deposit securities collateral to a recognised clearing house without a valid standing authority.

RBC's compliance team enquired with its operations team in March 2020 on the procedures it followed in respect of the standing letter of authorisation for all listed operations trading clients. The standing letter of authorisation authorised RBC to deposit clients' securities in their margin accounts to SEHK Options Clearing House Limited as collateral to cover the margin requirement for their open short options position. The next day, the operations team advised the compliance team that it had not renewed the annual standing letter of authorisation since 2011.

RBC reviewed 2,074 options contract transactions from December 2012 to March 2020 involving 124 accounts and found that 65 accounts were accounts of non-professional investor clients whose securities were transferred to SEHK Options Clearing House Limited as collateral.

This failure to renew the standing letter of authorisation breached sections 4(3), 7, and 10 of the Client Securities Rules and occurred due to a misinterpretation of the Client Securities Rules by the then RBC's Head of Operations and the then Compliance Manager.

The SFC's Views on RBC's Breaches of The Hong Kong Client Securities Rules

RBC's conduct of failing to segregate client money and transferring clients' securities to a clearing house as collateral without a valid standing letter of authorisation constituted a breach of sections 4(3), 4(4), 5(1), 7, and 10 of the Client Securities Rules. RBC also breached General Principles 2, 3, 7, and 8; and paragraphs 4.1, 11.1, and 12.1 of the SFC Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**SFC Code of Conduct**). The SFC thus reprimanded and fined RBC HK\$7.7 million for such breaches of the Client Securities Rules and the SFC Code of Conduct.

SFC Reprimands and Fines Rifa Futures Limited HK\$9 Million

On 25 July 2022, the SFC reprimanded and fined Rifa Futures Limited (**Rifa**) HK\$9 million for failures in performing adequate due diligence, conduct adequate monitoring of clients' fund movements and failing to implement a more secure login method for their clients' internet trading accounts. The SFC's Statement of Disciplinary Action is available on the SFC website [here](#).

Unauthorised Trading Through Sub-Accounts Via Broker Supplied Systems

The SFC had received numerous complaints in relation to various licensed corporations allowing clients to place orders to their broker supplied systems through a software called Xinguanjia, which allowed the clients to solicit investors in Mainland China to trade through subaccounts via Xinguanjia for placing orders

One complainant alleged that Xinguanjia permitted the licensed corporations' clients to create sub-accounts under accounts maintained with the licensed corporations, and the clients had solicited investors in Mainland China to trade through the sub-accounts via Xinguanjia without having to open separate securities accounts with the licensed corporations in Hong Kong. Rifa was one of the licensed corporations in the complaint. Between May 2016 and October 2018, Rifa permitted 310 clients to use customer supplied systems (including using Xinguanjia) for placing orders.⁴

Failure to Perform Adequate Due Diligence

Before allowing customer supplied systems to be connected to its broker supplied systems, Rifa would require its

clients to:

- (a) apply for a certificate from the vendor of the broker supplied systems; and
- (b) send a request to Rifa for final approval to use the customer supplied systems.

However, Rifa did not perform any due diligence or testing on the customer supplied systems used by its clients. It only carried out a walkthrough test on the connectivity between the customer supplied systems and its broker supplied systems. Although Rifa had claimed that it relied on the broker supplied system vendor to conduct due diligence on the customer supplied systems, the broker supplied system vendor stated that Rifa had never instructed it to (or actually had) conducted any due diligence or test on the customer supplied system to examine their design and functions.

The SFC noted that an absence of proper due diligence work over the use of its customer supplied systems could expose itself to major risks in unlicensed activities.

Failure to Conduct Adequate Monitoring of Fund Movements Of Client Deposits

The SFC investigation found that there were five clients who had deposited amounts into their accounts that were disproportionate to their declared income and net worth. Apart from conducting periodic ad hoc reviews on client information and quarterly reviews on their clients' fund movements, Rifa interviewed four clients several months later for the reasons for the deposits. The clients' explained that such fund movements were attributed to an increase in their income derived from their investment, businesses and rent, which Rifa accepted without asking any further questions or requiring any supporting documents.

Rifa thus failed to demonstrate adequate know your client (**KYC**) checks, proper enquiries into incommensurate deposits, timely and effective telephone calls, and hold clear policies and procedures.

SFC's Findings On Breaches Of The SFC Code of Conduct, AMLO and Cybersecurity Guidelines

Rifa's conducts led to breaches of General Principles 2 and 3; paragraphs 4.3 and 5.1 of the SFC Code of Conduct; section 23, section 5(1)(a), (b), and (c) of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AMLO**); and paragraph 1.1 of the Guidelines for Reducing and Mitigating Hacking Risks Associated with Internet Trading (**Cybersecurity Guidelines**). The SFC thus finds Rifa guilty of misconduct, fining it HK\$9 million pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).

KTF Capital Management Reprimanded and Fined for Non-Compliance With Hong Kong Financial Resources Requirements

On 28 July 2022, the SFC reprimanded and fined KTF Capital Management Limited (**KTFCM**) HK\$400,000 for failing to maintain its required liquid capital of approximately HK\$2.8 million between 13 and 18 December 2018 and notifying the SFC when it became aware of its inability to comply with the relevant financial resources requirements. The SFC's Statement of Disciplinary Action is available on the SFC website [here](#).

Failure to Maintain Required Liquid Capital

On 13 December 2018, KTFCM subscribed for the shares of Fosun Tourism Group upon its initial public offering on the Main Board of the HKEx. KTFCM's subscription, financed by a loan, gave rise to a liquid capital deficit. After the subscription was completed, KTFCM entered into an assignment agreement in relation to the shares and the loan and backdated its execution date in an attempt to retrospectively prevent the liquid capital deficit from arising.

Rule 4 of the Securities and Futures (Financial Resources) Rules (**FRR**) provides that a licensed corporation shall at all times maintain financial resources in the amount required under Rule 4 of the FRR. For KTFCM, a licensed corporation that is licensed for two regulated activities must at all times maintain a paid-up share capital of no less than HK\$5 million.⁵

Rule 6 of the FRR provides that a licensed corporation must maintain at all times liquid capital which is not less than its required liquid capital (approximately HK\$2.8 million in the case of KTFCM).

Rule 27(1)(a) of the FRR (Proprietary positions of licensed corporations) provides that a licensed corporation must include in its liquid assets listed shares that it beneficially owns at market value, less the haircut amounts in relation to the securities concerned. In KTFCM's case, the haircut percentage applicable to the shares when calculating KTFCM's liquid assets was 30% in accordance with item (1)(c) of Table 1 in Schedule 2 to the FRR.

Rule 44(1)(a) and (g) of the FRR (Concentrated proprietary positions) provides that a where a licensed corporation holds for its own account listed shares and the net market value of any such securities which are of the same

description equals 25% or more of its required liquid capital, it must include in its ranking liabilities, where the net market value is 51% or more of its required liquid capital, 10% of such net market value. In KTFCM's case, it was required to include in its ranking liabilities HK\$5.04 million (i.e. 10% of net market value of the shares).

KTFCM did not anticipate the FRR sums due to an oversight. The SFC calculation for KTFCM's liquid capital position showed that from 13 to 18 December 2018, the liquid capital was close to HK\$20 million.

Failure to Comply with Notification Requirements and Making Misrepresentations to the SFC

After becoming aware on 17 December 2018 that its liquid capital fell below the 120% required liquid capital (HK\$3.36 million), KTFCM did not notify the SFC as soon as reasonably practicable. The SFC was only notified four months later on 26 April 2019 by KTFCM's auditors. Further, when the SFC enquired about its liquid capital calculations from 13 to 18 December 2018, KTFCM misrepresented that it had indeed maintained sufficient liquid capital during that period. KTFCM later clarified that the assignment agreement for the loan was backdated but failed to provide an explanation to justify the backdating of the assignment agreement.

SFC's View Of KTFCM's Non-Compliance With Hong Kong Financial Resources Requirements

The SFC therefore considers KTFCM to have breached rule 55(1)(a) of the FRR and section 146(1) of the SFO. KTFCM's failure to comply with the relevant FRR requirements means that it also failed to comply with General Principle 7 and paragraph 12.1 of the SFC Code of Conduct. Accordingly, KTFCM was publicly reprimanded and fined HK\$400,000 pursuant to section 194 of the SFO

Chan Ka Hey Banned from Re-entering the Industry for Six Months

On 28 July 2022, the SFC banned Mr Chan Ka Hey (**Chan**), a former employee at Standard Chartered Bank from re-entering the industry for six months from 28 July 2022 to 27 January 2023. It was found by the HKMA that Chan had cut and pasted a customer's signature onto a form to deceive Standard Chartered Bank and an insurance company that the form was signed by the customer. The SFC's Statement of Disciplinary Action is available on the SFC website [here](#).

Cutting and Pasting Customer's Signature

Chan was employed at the time by Standard Chartered Bank as an Insurance Specialist in the Department of Retail Sales Specialists (Wealth Planning Manager). The customer was residing overseas and wished to set up a direct debit authorisation for her insurance policy. Chan therefore sent a "Change of Payment Mode and Direct Debit Authorisation Form – Bank Account" form (**DDA Form**) to the customer for her signing.

Originally, the document needed to be signed on pages 2 and 4 but the customer only signed on page 4. In order to set up the direct debit authorisation for the customer, he cut the customer's signature from page 4 on the original form and pasted the cut-out signature onto page 2 of a blank DDA Form and photocopied the page. Afterwards, he filled in the details by hand and passed the cut-out signature onto page 4 of the DDA Form and photocopied and dated the page. He then combined pages 1 and 3 of the original DDA Form with the composite pages 2 and 4 so it would appear that a complete set of the DDA Form was signed by the customer. Chan confirmed to the HKMA that the customer did not know about this and did not authorise him to do such an act.

This incident was discovered when an Standard Chartered Bank staff member found page 2 of the composite form left unattended inside the photocopying machine at the branch where Chan worked.

SFC's Views On Chan's Conduct

The HKMA referred the case to the SFC due to Chan ceasing to be registered as a relevant individual with the HKMA in May 2021. The SFC concluded that Chan breached section 129 of the SFO and was not a fit and proper person to be a registered person carrying on regulated activities honestly.

[1] 2015 Annual Report (delayed 33 months), 2016 Interim Results (delayed 34 months+), 2016 Interim Report (delayed 33 months+), 2016 Annual Results (delayed 27 months+), 2016 Annual Report (delayed 26 months+), 2017 Interim Results (delayed 22 months+), 2017 Interim Report (delayed 21 months+), 2017 Annual Results (delayed 15 months+), 2017 Annual Report (delayed 14 months+), 2018 Interim Results (delayed 10 months+), 2018 Interim Report (delayed 9 months+), 2018 Annual Results (delayed 3 months+), 2018 Annual Report (delayed 2 months+).

[2] Section 109(1) of the SFO provides that a person commits an offence if he issues, or has in his permission to issue, (a) an advertisement which to his knowledge (i) a person holds himself out as being prepared to carry on Type 4, Type 5, Type 6, or Type 9 regulated activity; and (ii) the person is not licensed or registered for such regulated activity as required under this ordinance; or (b) any document which to his knowledge contains such advertisement.

Section 114(1)(b) deals with

[3] "Makers" and "Checkers" are RBC staff in their operations team responsible for compiling and checking the client funding spreadsheets for calculating the amount of client money required to be segregated

[4] Customer supplied systems were connected to Rifa's broker supplied systems through application programming interface (a set of functions that allows applications to access data and interact with external software components or operating systems)

[5] Section 5(f) of the FRR

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