

REGULATORY NEWSLETTER

Enforcement News | Circular Updates

Enforcement News

SFC reprimands and fines Credit Suisse (Hong Kong) Limited, Credit Suisse Securities (Hong Kong) Limited and Credit Suisse AG \$39.3 million for regulatory breaches 8 Feb 2018

www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR12

SFC reprimanded and fined Credit Suisse \$39.3M for regulatory breaches, including failures in segregating client securities, reporting direct business transactions, complying with short selling requirements, electronic trading requirements and contract notes rules and failures in internal controls.

The SFC considers that Credit Suisse's systems and controls were inadequate and failed to ensure compliance with the Securities and Futures (Client Securities) Rules, Securities and Futures (Short Position Reporting) Rules, Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules, short selling provisions of the Securities and Futures Ordinance, Trading Rules of the SEHK, and various provisions of the Code of Conduct.

Court orders Qunxing and former directors to compensate investors on disclosure of false or misleading information 7 Feb 2018

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR10>

The Court of First Instance has granted



Circular Updates

Circular to Licensed Corporations on Client Facilitation
14 Feb 2018

www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=18EC11

LCs are reminded that the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct) requires that a licensed or registered person should act in the best interests of clients, disclose conflicts of interest and take all reasonable steps to ensure fair treatment of clients if conflicts of interest cannot be avoided.

Controls, Monitoring and Management

- Sufficient management oversight
- Well established policies and procedures covering the key areas relating to client facilitation
- Effective control functions
- Periodic training

Segregation of Agency and Facilitation Activities

- Segregated physical work locations of agency and client facilitation traders
- Clearly defined responsibilities of client facilitation traders
- Periodic review on user profiles and access right
- Recorded and monitored communications between agency

orders against Qunxing Paper Holdings Company Limited (“Qunxing”), its former chairman and vice-chairman – Mr Zhu Yu Guo and his son, Mr Zhu Mo Qun – and its subsidiary Best Known Group Limited to compensate investors who subscribed for Qunxing shares in its IPO or purchased them in secondary market from 2007 to 2011. Payments have to be made to Victory Asset Management Limited, which subscribed for 206,560,000 unlisted warrants of Qunxing in Jan 2011.

They had found disclosing false or misleading information in Qunxing’s IPO Prospectus in 2007 and its results announcements for the financial years ended on 31 Dec 2007 to 31 Dec 2011.

SFC reprimands and fines Interactive Brokers Hong Kong Limited \$4.5m for failures on its electronic and algorithmic trading systems 14 Feb 2018

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR14>

The SFC has reprimanded and fined Interactive Brokers Hong Kong Limited (“IBHK”) \$4.5M on its breaches of the Code of Conduct in its execution of market orders using electronic and algorithmic trading systems. In 2015 and 2016, share prices of Hong Kong-listed O-Net Communications (Group) Limited and AAG Energy Holdings Limited were ramped up by 48.7% and 126% in less than 2 minutes.

After review, it found that IBHK, when using its electronic and algorithmic trading systems, executed market orders by placing the entire order volume to the market and repeatedly submitting the unexecuted part of the order at the next available price until the entire order was completed. Also, IBHK execute market orders without considering liquidity. Furthermore, IBHK failed to put in place effective price and volume controls.

and client facilitation trader

Consent and Disclosure

- Disclosure of trades nature with prior consent from clients
- Well defined parties responsible to obtain client consent

Indications of Interest (IOIs)

- Sufficient details and controls with monitoring
- Due care for dissemination

More details can be found on the [Appendix](#).

Amendments to Anti-Money Laundering and Counter-Terrorist Financing Guidelines 23 Feb 2018

www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=18EC13

Two revised guidelines has published, namely the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (“the Guideline”) and Prevention of Money Laundering and Terrorist Financing Guideline issued by the SFC for Associated Entities (“the Guideline for AEs”). They incorporate provisions which reflect the relevant amendments in the recently enacted Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Ordinance 2018 (“the Amendment Ordinance”) with effective on 1 Mar 2018.

These provisions are mainly related to:

- Aligning the threshold of defining beneficial ownership from the current “not less than 10%” to “more than 25%”
- Introducing flexibility to measures permitted to be taken for verifying a customer’s identity
- Permitting financial institutions (“FI”) to rely on foreign FI within the same financial group as intermediaries to carry out customer due diligence measures
- Reflecting the current criteria relating to wire transfers in the FATF recommendations
- Changing the record-keeping period from “six years” to “at least five years”

Marked-up amendments to the Guideline and the Guideline for AEs are set out in [Appendix 1](#) and [Appendix 2](#).