

REGULATORY NEWSLETTER

Enforcement News | Regulatory Updates

Enforcement News

SFC reprimands and fines Huatai Financial Holdings (Hong Kong) Limited \$800,000 over naked short selling

17 Sep 2018

<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR106>

Great Wall announced its proposed bonus issue of shares, which was equivalent to 200 per cent of its existing issued shares and was subject to the fulfilment of certain conditions. When the shares started trading on an ex-rights basis, Huatai Financial's proprietary desk manually booked an entry in its trading system causing Huatai Financial's trading system to show a total of 540,000 Great Wall shares as a single position without differentiating between its pre-existing holding of 180,000 shares and the 360,000 bonus shares which had not been settled.

Without performing any checks or verifications, a proprietary trader of Huatai Financial assumed that the bonus shares had become unconditional and placed an order to sell 500,000 shares causing Huatai Financial to become short by 320,000 shares.

The SFC finds that Huatai Financial failed to act with due skill, care and diligence and to diligently supervise its staff members and implement adequate and effective systems and controls to ensure compliance with the short selling requirements.



Regulatory Updates

Compliance with notification requirement

14 Sep 2018

<https://www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=18EC67>

The SFC has issued a circular to remind:

- registered Institutions to report directly to the SFC in addition to reporting to the HKMA;
- intermediaries to report breaches of or non-compliance with various legal or regulatory requirements to the SFC as soon as practicable upon identification, i.e. not after the intermediary has already completed its investigation, obtained legal advice or taken remedial actions; and
- that failure to comply with the reporting obligation may result in disciplinary action being taken against the intermediaries and their management.

The SFC noted that the following breaches and non-compliance were not promptly reported by some intermediaries:

- Suspected unlicensed dealing activities;

Court of Appeal orders retrial in insider dealing case

11 Sep 2018

<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=18PR105>

The Court of Appeal has allowed the Securities and Futures Commission's (SFC) appeal against the Market Misconduct Tribunal's (MMT) decision that Mr 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 (China Gas).

The Court in a judgment of 10 September 2018 ordered that the matter be remitted to a differently constituted tribunal to determine solely the question of whether Cheng had dealt in the shares of China Gas.

The SFC is liaising with the MMT on the retrial of Cheng.

- Suspected unauthorised trading activities;
- Non-compliance with the suitability requirements under paragraph 5.2 of the Code of Conduct as supplemented by the corresponding frequently asked questions;
- Breaches of the Securities and Futures (Keeping of Records) Rules;
- Breaches of the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules; and
- Non-compliance with the order recording requirements under paragraph 3.9 of the Code of Conduct.

The SFC advises that intermediaries should review their incident escalation and reporting mechanisms and implement appropriate controls to ensure compliance with the notification requirement.