

**REPORT OF THE
MARKET MISCONDUCT TRIBUNAL
OF HONG KONG**

on whether any market misconduct has taken place
in relation to the listed securities of

China Vanguard Group Limited

(now known as Sinopharm Tech Holdings Limited (Stock Code 8156))

and

Yunbo Digital Synergy Group Limited

(now known as Quantum Thinking Limited (Stock Code 8050))

on and between 1 August 2014 and 30 September 2014

and other related questions

The Report of the Market Misconduct Tribunal into dealings
in the shares of China Vanguard Group Limited
(now known as Sinopharm Tech Holdings Limited) and
Yunbo Digital Synergy Group Limited (now known as Quantum Thinking Limited)
on and between 1 August 2014 and 30 September 2014

A report pursuant to sections 252(3) of the Securities and Futures Ordinance, Cap. 571

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Chapter 1

The Institution of Proceedings before the Market Misconduct Tribunal

The Notice Filed by the SFC

Pursuant to section 252(2) of, and Schedule 9 to, the Securities and Futures Ordinance, Cap 571 (“**the SFO**”), the Securities and Futures Commission (“**the SFC**”) on 5 August 2022 filed with the Market Misconduct Tribunal (“**the Tribunal**”) a Notice in which it stated that it appears to the SFC that:

“market misconduct in the nature of false trading within the meaning of section 274 of the Securities and Futures Ordinance (Cap. 571) (the “**SFO**”) has or may have taken place in relation to the shares in **China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (stock code 8156) (“CVG”)** and in relation to the shares in **Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (stock code 8050) (“YBD”)**, both listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (“**SEHK**”)...”

2. The Notice then stated that the SFC was instituting proceedings before the Market Misconduct Tribunal for it to determine:

- “(1) Whether any market misconduct within the meaning of section 274 of the SFO has taken place;
- (2) The identity of any person who has engaged in the market misconduct found

to have been perpetrated; and

- (3) The amounts of any profit gained and/or loss avoided, if any, as a result of the market misconduct found to have been perpetrated.”

These three determinations simply repeat what is contained in section 252(3) of the SFO.

3. The Notice specifies the person suspected to have engaged in Market Misconduct as Jonathan Dominic Wai Chung Iu, although this was later amended by direction of the Tribunal to Jonathan Dominic Wai Ching Iu (“**Mr Iu**” or “**the Specified Person**”).¹

4. Section 252(2) of the SFO requires the Notice to contain “a statement specifying the matters prescribed in Schedule 9”. Section 13 of Schedule 9 sets out what the section 252(2) statement must specify and that is as follows:

- “(a) the provision or provisions of Part XIII of this Ordinance by reference to which any person appears to have perpetrated any conduct which constitutes market misconduct; and
- (b) the identity of the person, and such brief particulars as are sufficient to disclose reasonable information concerning the nature and essential

¹ The person suspected by the SFC of having engaged in market misconduct is commonly referred to as the Specified Person as the SFC specifies his identity in accordance with its statutory duty under the SFO. If this person is determined by the Tribunal to have engaged in market misconduct then he, arguably, becomes the “identified person” because, in accordance with its duty under section 252(3)(b) of the SFO, the Tribunal has determined the identity of the person who has engaged in market misconduct and any orders that the Tribunal makes under section 257(1) of the SFO can only be made against this identified person. However, for the sake of consistency and to avoid any confusion, the term “Specified Person” is used throughout this Report.

elements of the market misconduct.”

5. In compliance with section 13 of Schedule 9, the statement specifies section 274 of the SFO as the provision of Part XIII of the ordinance by reference to which Mr Iu appears to have perpetrated any conduct which constitutes market misconduct and also provides “brief particulars as are sufficient to disclose reasonable information concerning the nature and essential elements of the market misconduct.”. The SFC’s Notice containing this statement is at **Annexure A** to this Report.

6. The section 13 brief particulars assert that Mr Iu was, at the material time, namely between 1 August 2014 and 30 September 2014, a director and the chief investment officer of **Tarascon Capital Management (Hong Kong) Limited (“Tarascon”)**. This company was incorporated in Hong Kong and is engaged in the business of providing investment and portfolio management services. **Mr Iu held 80% of the shares in Tarascon.**

7. Tarascon managed a hedge fund called **Tarascon Asia Absolute Fund (Cayman) Limited (“the Fund”)**. The Fund is a company incorporated in the Cayman Islands as an exempted open-ended investment company. Mr Iu was responsible for managing and making investment decisions for the Fund and was the only person authorised by Tarascon to place orders to trade securities for it.

8. The Fund maintained a number of securities accounts, three of which were Guosen Securities (HK) Brokerage Company Limited, UBS Securities Asia

Limited, and Morgan Stanley Hong Kong Securities Limited (the “Fund’s Accounts”).

9. Mr Iu’s mother, Victoria Iu (“Ms Iu”), maintained a securities account at Hang Seng Securities Limited (“Ms Iu’s Account”). Mr Iu had access to and was authorised by Ms Iu to operate this account.

10. The shares of both CVG and YBD were listed on the Growth Enterprise Market of the SEHK and between 1 August 2014 and 30 September 2014, Mr Iu made or proposed to make, offers to purchase and to sell shares in both of these companies. The accounts through which he made these trades were the Fund’s Accounts and Ms Iu’s Account.

11. The statement goes on to assert:

“7. Pursuant to the offers:

7.1. 23,465,000 CVG shares were purchased for the Fund’s Accounts at an average price of HK\$3.657 per share. 35,210,000 CVG shares were sold at an average price of HK\$3.412 per share. The Fund’s Accounts made a loss (based on the average purchase and sale prices, same for all figures of gains and losses below) of approximately HK\$2.68 million.

7.2 16,740,000 CVG shares were purchased for Ms Iu’s Account at an average price of HK\$3.409 per share. 17,895,000 CVG shares were sold at an average price of HK\$3.702 per share. Ms Iu’s Account made a gain of approximately HK\$5.54 million.

7.3 1,600,000 YBD shares were purchased for the Fund's Accounts at an average price of HK\$6.932 per share. 756,000 YBD shares were sold at an average price of HK\$6.68 per share. The Fund's Accounts made a loss of approximately HK\$2.67 million.

7.4 556,000 YBD shares were purchased for Ms Iu's Account at an average price of HK\$6.901 per share. 556,000 YBD shares were sold at an average price of HK\$7.038 per share. Ms Iu's Account made a gain of approximately HK\$76,040.

8. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against opposite offers also made by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be):

8.1. 15,805,000 CVG shares were purchased by the Fund's Accounts from Ms Iu's Account. 14,420,000 CVG shares were sold from the Fund's Accounts to Ms Iu's Account.

8.2. 440,000 YBD shares were purchased by the Fund's Accounts from Ms Iu's Account. 100,000 YBD shares were sold from the Fund's Accounts to Ms Iu's Account."

12. These facts, the SFC alleges, reveal Mr Iu committing market misconduct in the form of false trading contrary to section 274 of the SFO. In support of this allegation the SFC, in the statement attached to its Notice, reasons as follows:

"9. By the offers:

9.1. Mr Iu offered to purchase and sell shares in CVG at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.

9.2. Mr Iu offered to purchase and sell shares in YBD at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.

10. Moreover, amongst the offers:

10.1. Mr Iu often made offers to sell shares in CVG and YBD for Ms Iu's Account at minimum prices higher than the nominal prices of such shares in the market, and made offers to purchase shares at maximum prices lower than the nominal prices of such shares in the market.

10.2. In anticipation of or following such offers to sell shares for Ms Iu's Account, Mr Iu made offers to purchase shares for the Fund's Accounts which would be executed against other offers in the market with priority over the offers to sell shares for Ms Iu's Account. The nominal prices of the shares would be increased.

10.3. In anticipation of or following such offers to purchase shares for

Ms Iu's Account, Mr Iu made offers to sell shares for the Fund's Accounts which would be executed against other offers in the market with priority over the offers to purchase shares for Ms Iu's Account. The nominal prices of the shares would be decreased.

10.4. As a result, the offers made or to be made to sell or purchase CVG or YBD shares for Ms Iu's Account could be and were executed at higher prices for selling and lower prices for purchasing.”

13. The SFC then concludes:

“11. By the offers and by reason of the matters aforesaid:

11.1. Mr Iu offered to and/or did purchase and sell shares in CVG for the Fund's Accounts and Ms Iu's Account with the intention that, or being reckless as to whether, the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in CVG shares, within the meaning of section 274(1)(a) of the SFO;
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, CVG shares, within the meaning of section 274(1)(b) of the SFO; and/or
- (c) Creating an artificial price for dealings in CVG shares, within the meaning of section 274(3) of the SFO.

11.2. Mr Iu offered to and/or did purchase and sell shares in YBD for the

Fund's Accounts and Ms Iu's Account with the intention that, or being reckless as to whether, the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in YBD shares, within the meaning of section 274(1)(a) of the SFO;
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, YBD shares, within the meaning of section 274(1)(b) of the SFO; and/or
- (c) Creating an artificial price for dealings in YBD shares, within the meaning of section 274(3) of the SFO.

12. In the premises, Mr Iu engaged in market misconduct, namely false trading within the meaning of section 274 of the SFO.”

14. In terms of the determinations that the Tribunal is required to make, the statement seeks to outline the factual basis of the SFC's allegations that:

- (1) market misconduct in the form of false trading contrary to section 274 of the SFO took place between 1 August 2014 and 30 September 2014;
- (2) the person who engaged in this market misconduct was Mr Iu; and
- (3) as a result of this market misconduct a profit was gained of approximately HK\$5.54 million from trades in respect of CVG

shares and HK\$76,040 in respect of YBD shares. These gains were all made to Ms Iu's account and at the expense of the Fund's accounts. The Fund's Accounts incurred losses of approximately HK\$2.68 million in respect of the trades in CVG shares and HK\$2.67 million in respect of the trades in YBD shares.

Chapter 2

False Trading

15. The provisions of the SFO dealing with market misconduct can be found in Part 13 of the ordinance. Division 2 of this Part establishes the Market Misconduct Tribunal; Division 3 provides a right of appeal to the Court of Appeal from findings or determinations of the MMT; and Division 4 contains provisions relating to insider dealing. Division 5 is entitled “Other market misconduct” and it is within this Division, at section 274, that false trading can be found. The whole of section 274 is at **Annexure B** to this Report but not all of it requires our consideration. For our purposes, the relevant parts of section 274 are as follows:

“274. False trading

- (1) False trading takes place when, in Hong Kong or elsewhere, a person does anything or causes anything to be done, with the intention that, or being reckless as to whether, it has, or is likely to have, the effect of creating a false or misleading appearance—
 - (a) of active trading in securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services; or
 - (b) with respect to the market for, or the price for dealings in, securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services.

...

- (3) False trading takes place when, in Hong Kong or elsewhere, a person takes part in, is concerned in, or carries out, directly or indirectly, one or more transactions (whether or not any of them is a dealing in securities or futures contracts), with the intention that, or being reckless as to whether, it or they has or have, or is or are likely to have, the effect of creating an artificial price, or maintaining at a level that is artificial (whether or not it was previously artificial) a price, for dealings in securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services.

...

- (5) Without limiting the general nature of the conduct which constitutes false trading under subsection (1) or (2), where a person—

...

- (b) offers to sell securities at a price that is substantially the same as the price at which he has made or proposes to make, or knows that an associate of his has made or proposes to make, an offer to purchase the same or substantially the same number of them; or
- (c) offers to purchase securities at a price that is substantially the same as the price at which he has made or proposes to make, or knows that an associate of his has made or proposes to make, an offer to sell the same or substantially the same number of them,

then, unless the transaction in question is an off-market transaction, the

person shall, for the purposes of subsections (1) and (2), be regarded as doing something or causing something to be done, with the intention that, or being reckless as to whether, it has, or is likely to have, the effect of creating a false or misleading appearance—

- (i) where the securities are traded on a relevant recognized market or by means of authorized automated trading services, of active trading in securities so traded or with respect to the market for, or the price for dealings in, securities so traded; or
- (ii) where the securities are traded on a relevant overseas market, of active trading in securities so traded or with respect to the market for, or the price for dealings in, securities so traded.”

16. The elements of the forms of market misconduct described in section 274(1) are:

- (i) a person does anything or causes anything to be done;
- (ii) (a) with the intention that what he does, or causes to be done, has or is likely to have, the effect of creating a false or misleading appearance; or
- (b) is reckless as to whether what he does, or causes to be done, has or is likely to have, the effect of creating a false or misleading appearance;
- (iii) the false or misleading appearance must be:

- (a) of active trading in securities or futures contracts traded on a relevant recognised market or by means of authorised automated trading services (section 274(1)(a)); or
- (b) with respect to the market for, or the price for dealings in, securities or futures contracts traded on a relevant recognised market or by means of authorised automated trading services (section 274(1)(b)).

17. The elements of the forms of market misconduct described in section 274(3) are:

- (i) a person takes part in or is concerned in or carries out, directly or indirectly one or more transactions;
- (ii) with the intention that, or being reckless as to whether, the transaction(s) has or is likely to have the effect of:
 - (a) creating an artificial price; or
 - (b) maintaining at a level a price that is artificial;

for dealings in securities or futures contracts traded on a relevant recognised market or by means of authorised automated trading services.

18. Subsection 3 is concerned with conduct that seeks to set or maintain a market price for a share at a particular level. This conduct results in what the

section calls an artificial price. It is a price that is created by a market support operation of which the market is unaware and, in its ignorance, will wrongly attribute to the forces of genuine supply and demand.

19. Market manipulation, whether it be in the form of false trading under section 274(1) or under section 274(3), involves an interference with the forces of supply and demand which enables the manipulator to influence the decisions of investors who, unaware of his interference, believe that whatever is happening to a particular share is due solely to the forces of genuine supply and demand. The purpose of prohibiting this conduct is to preserve the integrity of the market and protect the interests of all investors. The following observations of Sir Anthony Mason in the Australian High Court judgment of *North v Marra Developments Limited*² have been held by our Court of Appeal³ to be equally applicable to section 274:

“It seems to me that the object of the section is to protect the market for securities against activities which will result in artificial or managed manipulation. The section seeks to ensure that the market reflects the forces of genuine supply and demand. ...It is in the interests of the community that the market for securities should be real and genuine, free from manipulation. The section is a legislative measure designed to ensure such a market and it should be interpreted accordingly.”

20. The observations of Sir Anthony Mason came under detailed discussion

² (1981) 148 CLR 42, at 59.

³ See *HKSAR v Fu Kor Kuen Patrick* [2011] 1 HKLRD 655 at 665, [25].

in the later High Court of Australia decision of *DPP(Cth) v JM*⁴. Here the High Court was dealing with a very similar provision to our section 274(3). It discussed Mason J's judgment in *North v Marra Developments Limited*⁵ and said of it that the proposition which underpinned that decision was that "market manipulation is centrally concerned with conduct, intentionally engaged in, which has resulted in a price which does not reflect the forces of supply and demand".⁶

21. The importance of genuine supply and demand to the integrity of the market's operation was further expanded upon by the High Court. It said:

“ *Genuine supply and demand*’

71. The forces of "genuine supply and demand" are those forces which are created in a market by buyers whose purpose is to acquire at the lowest available price and sellers whose purpose is to sell at the highest realisable price...

...

74. ... Participants in the market can be (and are) informed of the transactions which occur. Participants in the market are entitled to assume that the transactions which are made are made between genuine buyers and sellers and are *not* made for the purpose of setting or maintaining a particular price. Hence, as Mason J explained in *North v Marra* (109), "in the absence of revelation of their true character [as transactions to set or maintain a particular price] they are seen as transactions reflecting genuine supply and

⁴ (2013) 250 CLR 135.

⁵ (1981) 148 CLR 42.

⁶ (2013) 250 CLR 135 at 165, [70].

demand and having as such an impact on the market". They have, or at least are likely to have, the effect of setting or maintaining an artificial price for the shares in question.”

22. Thus, the forms of market misconduct in section 274(1) and (3) are all about a person’s state of mind when he does something or causes something to be done, which has, or is likely to have, the effect of creating the proscribed false or misleading appearance. It is not enough that the acts of the person do in fact have, or are likely to have, the effect of creating the requisite false or misleading appearance; the required state of mind is that the person must intend his acts to have the effect of creating this false or misleading appearance or be reckless as to his actions having the effect of creating such an appearance.

23. In *HKSAR v FU Kor Kuen Patrick*⁷ the Court of Appeal held that it was correct to say that a result was intended when:

- (i) it was the actor’s purpose to cause it; or
- (ii) if not the actor’s purpose, the result is a virtually certain consequence of the act and the actor knows that it is a virtually certain consequence.

24. The law relating to recklessness as a state of mind is as set out in the Court of Final Appeal judgement of Sir Anthony Mason NPJ in *Sin Kam Wah &*

⁷ [2011] 1 HKLRD 655 at 665 – 666, [27] – [31], following *Securities and Futures Commission v Zou Yishang* [2007] 3 HKC 409.

Another v HKSAR.⁸ In giving a judgement with which the other members of the Court agreed, Sir Anthony said:

“... juries should be instructed that ... it has to be shown that the defendant’s state of mind was culpable in that he acted recklessly in respect of a circumstance if he was aware of a risk which did or would exist, or in respect of a result if he was aware of a risk that it would occur, and it was, in the circumstances known to him, unreasonable to take the risk.”

25. Unless the person doing the acts, or causing them to be done, makes admissions as to his intent, then proof of his intent will be by drawing an inference from the circumstantial evidence.

26. However, section 274 provides an aid to proving intent in the form of subsection 5 which is a deeming provision. This means that, in the particular situations described in the subsection, certain acts are deemed to have been done, or caused to be done, with the specified intent. Subsection 5 identifies three types of conduct which are described in paragraphs (a) to (c) of the subsection. Subsection 5(a) describes a kind of conduct commonly referred to as “wash sales” and subsection 5(b) and (c) describes a kind of conduct commonly referred to as “matched orders”.

27. In the case of Mr Iu, the SFC asserts in paragraphs 9.1 and 9.2 of its Notice⁹ that Mr Iu’s conduct in his offers to purchase and sell both CVG and YBD

⁸ (2005) 8 HKCFAR 192 at 210, [44].

⁹ See [12], page 5 of this Report where 9.1 and 9.2 of the Notice are quoted.

shares is the kind of conduct described in section 274(5)(b) and (c) of the SFO.

That being so, the SFC argues, the deeming provision in subsection 5 is triggered and, thereby, Mr Iu's intent to commit false trading is proven.

28. However, as we shall see, in the present case Mr Iu admits he engaged in false trading and there is no dispute that the Tribunal should so determine under section 252(3)(b) of the SFO.

29. If at the end of the proceedings the Tribunal identifies a person as having engaged in market misconduct then the Tribunal may make one or more of the orders set out in section 257 of the SFO. The whole of section 257 is at **Annexure C**.

Chapter 3

The History of the Proceedings

30. After the institution of these Proceedings by the SFC filing its Notice, the first formal hearing by the Tribunal took place. This was a preliminary conference that was held on 28 October 2022. At this hearing, presided over by Mr McWalters GBS as Chairman of the Tribunal, Mr Iu was represented by solicitors from Messrs Hauzen LLP. The Presenting Officer for the SFC was Mr Laurence Li SC. At this hearing the Chairman gave directions for the further progress of the proceedings. The Chairman also appointed 24 March 2023 for a further preliminary conference, to be presided over by the Chairman alone in accordance with section 30 of Schedule 9 of the SFO.

31. On 13 January 2023 Mr Anthony Jen Haw Chan and Mr Tan Yat Quan were appointed as Ordinary Members of the Tribunal.

32. On 2 February 2023 the Tribunal received an email from Messrs Hauzen LLP informing it that the firm had no further instructions from Mr Iu “to act with respect to this matter”. On 15 February 2023 the Tribunal received a letter from Messrs Jack Fong & Co informing the Tribunal that it had been instructed by Mr Iu to act for him in those proceedings in place of Messrs Hauzen LLP.

33. On 1 March 2023 Messrs Jack Fong & Co wrote to the Tribunal informing it as follows:

“Due to recent developments, Mr Iu is not minded to file any evidence to contest liability.”

Senior Counsel has been recently instructed and initiatives have been taken to liaise with the SFC to reach an amicable solution with a view to deal with the matter expediently.”

34. At the second preliminary conference held on 24 March 2023 Mr Edwin Choy SC appeared for Mr Iu. At this hearing Mr Choy indicated that his client would not be contesting liability and that it was anticipated that a set of agreed and admitted facts relating to liability would be filed with the Tribunal. It was made clear that the parties’ submissions would primarily concern the orders the Tribunal should make upon determining that Mr Iu had engaged in market misconduct. At the conclusion of this hearing the Chairman gave directions for the filing by the parties of their written submissions and appointed 10 May 2023 for the substantive hearing.

35. On 26 April 2023, in compliance with the directions given by the Tribunal, the SFC filed its written submissions in a bundle that also contained a Statement of Agreed and Admitted Facts, and Annexures, dated 26 April 2023 that was signed by both the SFC and Mr Iu’s solicitors. The Statement of Agreed and Admitted Facts (“SoAAF”), and the Annexures to it, are **Annexure D** to this Report.

36. A detailed summary of the SoAAF is contained in Chapter 4 of this Report. For present purposes it is sufficient to note that nowhere in the SoAAF is any mention made of what happened to the monies in Ms Iu's account that were the profits gained from the false trading. Nor was anything said about Mr Iu's motivation for the false trading.

37. Also in the SFC's bundle was a document entitled "Orders Jointly Proposed by the SFC and the Specified Person". This document, which contains the parties' proposed orders, is **Annexure E** to this Report. In respect of this document it became of concern to the Tribunal that no order was being sought under section 257(1)(d) of the SFO in respect of the profit that was gained from the market misconduct.

Section 257(1)(d) of the SFO

38. These omissions in the SoAAF and the Proposed Orders document prompted the Chairman to write to the parties on 28 April 2023. In that letter the Chairman invited the parties to indicate firstly what their positions were in respect of Mr Iu's motivation as that was relevant to the Tribunal's assessment of his culpability. Secondly, the Chairman enquired what had happened to the profit gained and why no order under section 257(1)(d) of the SFO was being sought in respect of it.

39. Section 257(1)(d) of the SFO provides:

"257. Orders, etc. of Tribunal

(1) Subject to subsection (3), the Tribunal may at the conclusion of any proceedings instituted under section 252 make one or more of the following orders in respect of a person identified as having engaged in market misconduct pursuant to section 252(3)(b)–

...

(d) an order that the person pay to the Government an amount not exceeding the amount of any profit gained or loss avoided by the person as a result of the market misconduct in question;”

40. In his written submission to the Tribunal dated 4 May 2023 Mr Li, counsel on behalf of the SFC, said of Mr Iu’s motive:

“The materials available to the SFC do not directly show what Mr Iu’s motive was.

However, given that his false trading would naturally result and has in fact resulted in substantial gains to his mother, i.e. Ms Iu’s Account, it is probable that his motive was to benefit his mother.”

41. Mr Li went on to explain in his submission that the SFC had “attempted fund tracing to identify the source of funds for the relevant trading in Ms Iu’s Account and any possibility of the proceeds or any part thereof flowing to Mr Iu”. However, its efforts in this regard did not reveal “the eventual destination of the proceeds or suffice to establish that Mr Iu has any beneficial interest in the shares and/or the proceeds in Ms Iu’s Account”. In these circumstances, Mr Li submitted that Mr Iu “cannot be ordered to disgorge the profits apparently gained

by Ms Iu simply because of their family relationship’.

42. Mr Li then expressed the SFC’s position as being:

- (1) because the false trading benefited the mother, Mr Iu’s motive “was probably to benefit his mother”; and
- (2) an order of disgorgement cannot be made against Ms Iu as she “has not been identified as having engaged in any market misconduct”.

43. In its letter of 4 May 2023 the solicitors for Mr Iu agreed with the SFC’s response to the Tribunal’s questions and asserted that “the motive of the Specified Person is not an essential element of the market misconduct as alleged” and “there is insufficient basis in law for an order of disgorgement”.

44. On 4 May 2023, in response to these submissions, the Chairman again wrote to the parties noting the interpretation of section 257(1)(d) of the SFO that underlay their position and directing that more detailed written submissions in respect of the interpretation of section 257(1)(d) be filed with the Tribunal by 8 May 2023 for a hearing on 10 May 2023.

45. At the hearing on 10 May 2023, the Tribunal made clear to the parties that it would require detailed submissions on the interpretation of section 257(1)(d) and would also wish to be addressed by the parties on what inferences the Tribunal

could draw, on the balance of probabilities¹⁰, from the evidence presented to it, in respect of Mr Iu's control over the profit gained from his market misconduct and the ultimate disbursement of it.

46. After the hearing of 10 May 2023 the Tribunal received a letter from Jack Fong & Co informing the Tribunal that:

“We are instructed that the specified person does not intend to make any further admissions except those already agreed to and admitted in the SoAAF.”

47. This was followed by a further letter from Jack Fong & Co dated 15 May 2023. In this letter the solicitors stated that Mr Iu had terminated their retainer and the retainer of the two counsel and that, accordingly, they had “no authority and instructions to act for the abovenamed Specified Person in the above proceedings any further”.

48. In a letter to the Tribunal dated 17 May 2023 the SFC said that it would identify the evidence relevant to the issue of Mr Iu's control over Ms Iu's account. On 25 May 2023 the Chairman proposed certain directions relating to the further investigation by the SFC into the access to, and use by, Mr Iu of Ms Iu's securities account and the disbursement of the profits of the false trading from that account. However, in subsequent correspondence the Chairman agreed with the SFC that no directions were necessary as the SFC would carry out the further investigation requested by the Tribunal and in due course update the Tribunal on the results of

¹⁰ Section 252(7) of the SFO provides that “the standard of proof required to determine any question or issue before the Tribunal shall be the standard of proof applicable to civil proceedings in a court of law.”

its efforts. In its letter of 12 June 2023 the Tribunal required the SFC to provide it with a progress report by letter no later than 15 September 2023.

49. There are two issues arising in respect of section 257(1)(d). The first is the purely legal one of how subsection (1)(d) should be interpreted. Being a purely legal issue it is a matter for the Chairman to decide and having so decided to direct the Tribunal.

50. The second issue is the factual one of whether, on the evidence before it, and applying the legal directions of the Chairman on the interpretation of section 257(1)(d), an order can be made under the subsection by the Tribunal and, if so, whether such an order should, in the exercise by the Tribunal of its discretion, be made and, if so, the terms of that order.

51. In order not to unnecessarily delay this enquiry, the Chairman directed that a hearing take place before him alone to address the legal issue of the interpretation of section 257(1)(d) of the SFO. This hearing took place on 17 November 2023 but Mr Iu, who is now resident in the United Kingdom, wrote to the Tribunal and informed it that he would not participate in this hearing and would rely on the submissions filed by his former legal representatives with the Tribunal. The hearing took place and the Ruling by the Chairman was handed down on 11 January 2024. This Ruling is at **Annexure F** to this Report.

52. The Chairman subsequently directed that a further oral hearing take place on 12 April 2024 so that the parties could make further submissions on the

orders the Tribunal should make and specifically whether it should make an order under section 257(1)(d) and, if so, the terms of that order. The Chairman also wrote to Mr Iu inviting him to provide an update, if he so wished, on his medical condition and informing him that if he wished to argue that he was impecunious and that this fact should influence the Tribunal in whether to make financial orders against him, then he would have to substantiate his claim of impecuniosity. This correspondence and Mr Iu's submissions to the Tribunal as set out in his letter are detailed in Chapter 6 of this Report.

53. In preparation for the hearing on 12 April 2024 the SFC filed a written submissions in which it invited the Tribunal to make all the orders previously agreed on by the parties and, additionally, an order under section 257(1)(d) that Mr Iu pay to the government the profit that he gained from his market misconduct. The SFC argued that:

“... the relevant questions are whether Mr Iu had set out to make and succeeded in making a financial gain in Ms Iu's Account through false trading, and how much profit was gained.”

All these questions, the SFC submitted, were answered affirmatively by the admissions Mr Iu had made in the SoAAF and the amount of the profit gained from the false trading was similarly established.

54. The SoAAF only contained an approximate amount of the profit gained by Mr Iu from his trades in CVG shares. The precise amount, however, can be obtained from the expert report prepared for the SFC by Mr T.B. Hekster, the

contents of which were admitted by Mr Iu. According to Mr Hekster the precise amount of profit from the CVG trades was HK\$5,541,500. With the profit of HK\$76,040 that Mr Iu gained from the trades in YBD shares, the total profit gained was HK\$5,617,540 and this is the amount, the SFC submits, for which the section 257(1)(d) order should be made.

55. The SFC also filed a further report on the results of its additional investigations carried out at the request of the Tribunal. The contents of this report are discussed in Chapter 6 of this Report.

56. On 9 April 2024 Mr Iu informed the Tribunal that he would not be able to attend the hearing on 12 April as he is currently receiving treatment for his clinical depression and because his financial situation is such that he had no ability to return to Hong Kong. He asks the Tribunal to “take into consideration my current health condition, financial situation lack of employment prospects and investor mitigation letters” when deciding on the orders it will make.

Chapter 4

The Market Misconduct of the Specified Person

The Evidence of the SFC

57. The factual background to Mr Iu's market misconduct is set out in detail in the SoAAF at **Annexure D**.

58. The SFC and Mr Iu agree and accept the facts and matters set out in this document and invite the Tribunal "to make a determination under section 252(3) of the [SFO] on the basis of the facts and matters set out herein". Below is a summary of the contents of the SoAAF.

(i) Mr Iu's professional position

59. The document first sets out Mr Iu's position as director, chief investment officer and owner of 80% of the shares of Tarascon. It then refers to Tarascon's **management of the Fund, of which Mr Iu was one of five unit holders.** Importantly, it is admitted that Mr Iu was:

"... responsible for managing and making investment decisions for the Fund and the only person authorised by Tarascon to place orders to trade securities for the Fund."

(ii) The accounts to which Mr Iu had access

60. The SoAAF then refers to three of the Fund's securities accounts, namely the Guosen Account, the UBS Account and the Morgan Stanley Account which it collectively refers to as the "**Fund's Accounts**". In respect of these accounts it is admitted and agreed that Mr Iu was "the only person authorised by Tarascon to operate and to trade securities through the Fund's Accounts".

61. The next set of admissions concern Mr Iu's mother who had a securities account at Hang Seng Securities Limited. It is admitted that at the material times Mr Iu was "authorised by Ms Iu to operate and to trade securities through Ms Iu's Account", and that "Ms Iu was an associate of Mr Iu within the meaning of section 274(5) of the SFO".

(iii) Mr Iu's trading in CVG and YBD shares

62. The next section in the SoAAF concerns Mr Iu's operations of the Fund's Accounts and Ms Iu's account in respect of share trades of CVG and YBD which were listed on the Growth Enterprise Market of the Stock Exchange of Hong Kong Limited.

63. The SoAAF summarises the trades that Mr Iu conducted in CVG and YBD shares but greater detail of these trades are contained in Enclosures (in the form of CD-ROMs) and Annexures to the SoAAF. The SFC retained an expert in securities trading, Mr T.B. Hekster, to analyse the orders and trades in these

two shares. Mr Hekster produced a report and in the SoAAF it is stated in respect of this report:

“Mr Iu agrees to and accepts the contents of the Expert Report.”

64. In respect of CVG shares traded through the Fund’s Accounts it is admitted:

- (i) as of 31 July 2014 the Fund’s Accounts held 76,450,000 CVG shares;
- (ii) during the period 1 August 2014 to 30 September 2014 Mr Iu purchased a total of 23,465,000 shares at an average price of HK\$3.657 per share and sold 35,210,000 shares at an average price of HK\$3.412 per share;
- (iii) these transactions constituted 42.71% of the total trading volume of CVG shares in the market on those days on which Mr Iu traded; and
- (iv) these transactions resulted in a loss of approximately HK\$2.68 million to the Fund’s Accounts.

65. In respect of CVG shares traded through Ms Iu’s account it is admitted:

- (i) as of 31 July 2014 Ms Iu’s account had 2,190,000 CVG shares;
- (ii) during the period 1 August 2014 to 30 September 2014 Mr Iu purchased a total of 16,740,000 shares at an average price of

HK\$3.409 per share and sold 17,895,000 shares at an average price of HK\$3.702 per share;

- (iii) these transactions constituted 28.29% of the total trading volume of CVG shares in the market on those days on which Mr Iu traded; and
- (iv) these transactions resulted in a gain of approximately HK\$5.54 million to Ms Iu's account.

66. In respect of Mr Iu's trading in YBD shares through the Fund's Accounts, the SoAAF reveals:

- (i) as of 31 July 2014 the Fund's Accounts did not hold any YBD shares;
- (ii) in the period 1 August 2014 to 30 September 2014, Mr Iu purchased for the Fund's Accounts a total of 1,600,000 YBD shares at an average price of HK\$6.932 per share and sold for the Fund's Accounts 756,000 shares at an average price of HK\$6.680 per share;
- (iii) these transactions constituted 20.20% of the total trading volume of YBD shares in the market on those days on which Mr Iu traded; and
- (iv) the transactions resulted in a loss of approximately HK\$2.67 million to the Fund's Accounts.

67. For the YBD trades conducted through Ms Iu's account, the SoAAF reveals:

- (i) as of 31 July 2014 Ms Iu's account did not hold any YBD shares;
- (ii) from 1 August 2014 to 30 September 2014 Mr Iu purchased 556,000 YBD shares at an average price of HK\$6.901 per share and sold 556,000 shares at an average price of HK\$7.038 per share;
- (iii) these transactions constituted 8.02% of the total trading volume of YBD shares in the market on those days on which Mr Iu traded; and
- (iv) these transactions resulted in a gain of HK\$76,040 to Ms Iu's account.

(iv) Mr Iu's false trading

68. Many of the CVG transactions involved matching offers and executions between the Fund's Accounts and Ms Iu's Account and this is proven by the following admissions in the SoAAF:

"27. On 22 of the trading days mentioned above, Mr Iu operated both the Fund's Accounts and Ms Iu's Account. He contemporaneously placed orders to purchase or to sell CVG shares for the Fund's Accounts on the one hand, and orders to sell or to purchase CVG shares for Ms Iu's Account on the other.

28. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against offers also placed by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be). The opposite orders resulted in 128 executed transactions between the Fund's Accounts and Ms Iu's Account.
29. As a result, the Fund's Accounts purchased 15,805,000 CVG shares from Ms Iu's Account and sold 14,420,000 CVG shares to Ms Iu's Account."

69. As with the CVG trades, many of the YBD transactions involved matching offers and executions between the Fund's Accounts and Ms Iu's Account and this is proven by the following admissions in the SoAAF:

- "42. On 3 of the trading days mentioned above, Mr Iu operated both the Fund's Accounts and Ms Iu's Account. He contemporaneously placed orders to purchase or to sell YBD shares for the Fund's Accounts on the one hand, and orders to sell or to purchase YBD shares for Ms Iu's Account on the other.
43. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against offers also placed by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be). The opposite orders resulted in 11 executed transactions between the Fund's Accounts and Ms Iu's Account.

44. As a result, the Fund's Accounts purchased 440,000 YBD shares from Ms Iu's Account, and sold 100,000 YBD shares to Ms Iu's Account."

70. By reason of the trades carried out by Mr Iu, and of their matching characteristics, the following admissions were made as to Mr Iu's complicity in false trading:

"F. False Trading by Matching Orders

46. By reason of the matters aforesaid:

46.1 On at least 128 occasions, Mr Iu offered to purchase and sell shares in CVG at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.

46.2 On at least 11 occasions, Mr Iu offered to purchase and sell shares in YBD at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO."

71. It was also admitted by Mr Iu that by the way he conducted his trading "the orders placed or to be placed to sell or purchase CVG or YBD shares for

Ms Iu's Account could be and were executed at higher prices for selling and lower prices for purchasing".

(v) Mr Iu's intention

72. The intention of Mr Iu in conducting the trades in the way he did is established by the following admission:

“51. Mr Iu placed the orders with the intention that the orders or their resulting transactions would:

51.1 Cause more than ordinary changes in the trading volumes or prices in the CVG or YBD shares;

51.2 Not reflect the genuine market supply and demand for the CVG or YBD shares; and

51.3 Set or maintain the price of the CVG or YBD shares at a level which did not reflect genuine market supply and demand.”

73. However, what causes his trading conduct to amount to false trading is his intention that his trading will have the effect of creating a false or misleading appearance of a specified kind or being reckless as to his actions having the effect of creating the false or misleading appearance of this specified kind. Mr Iu's next set of admissions prove that intent:

“H. False Trading by Creating False Appearance

52. By reason of the matters aforesaid, including in sections D, E, and G above:

52.1 Mr Iu offered to and/or did purchase and sell shares in CVG for the Fund's Accounts and Ms Iu's Account with the intention that the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in CVG shares, within the meaning of section 274(1)(a) of the SFO; and/or
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, CVG shares, within the meaning of section 274(1)(b) of the SFO.

52.2 Mr Iu offered to and/or did purchase and sell shares in YBD for the Fund's Accounts and Ms Iu's Account with the intention that the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in YBD shares, within the meaning of section 274(1)(a) of the SFO; and/or
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, YBD shares, within the meaning of section 274(1)(b) of the SFO.”

(vi) Mr Iu's liability for market misconduct

74. This leads to Mr Iu's final admission which is conclusive of his having

engaged in false trading contrary to section 274 of the SFO:

“I. Contravention of the SFO

53. In the premises, Mr Iu admits, agrees, and accepts that he engaged in market misconduct, namely false trading contrary to section 274 of the SFO.”

Determination of the Tribunal under Section 252(3) of the SFO

75. Based upon the contents of the SoAAF, with special reliance on the admissions made in that document by Mr Iu, and upon other material placed before the Tribunal, we determine in accordance with section 252(3) of the SFO as follows:

- (i) market misconduct in the form of false trading within the meaning of section 274 of the SFO took place in Hong Kong between 1 August 2014 and 30 September 2014 in respect of the shares of CVG and YBD;
- (ii) the person who engaged in this market misconduct was the Specified Person, namely Mr Jonathan Dominic Wai Ching Iu; and
- (iii) the amount of \$5,617,540 was profit gained as a result of the market misconduct.

Chapter 5

The Orders Proposed by the Parties

76. The proposed orders are based on the Tribunal having come to a finding “that the Specified Person engaged in Market Misconduct, namely false trading contrary to section 274 of the SFO”. This we have done, as set out in the preceding chapter, on the basis of the contents of the SoAAF.

77. The proposed orders are:

“IT IS ORDERED that:

1. Pursuant to section 257(1)(a) of the SFO, for a period of 48 months, the Specified Person shall not, without the leave of the Court of First Instance:
 - (a) Be or continue to be a director, liquidator, or receiver or manager of the property or business, of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates; or
 - (b) In any way, whether directly or indirectly, be concerned or take part in the management of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates.
2. Pursuant to section 257(1)(b) of the SFO, the Specified Person shall not,

without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leverage foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for a period of 48 months.

3. Pursuant to section 257(1)(c) of the SFO, the Specified Person shall not again perpetrate any conduct which constitutes the market misconduct of:
 - (a) Insider dealing under section 270 of the SFO;
 - (b) False trading under section 274 of the SFO;
 - (c) Price rigging under section 275 of the SFO;
 - (d) Disclosure of information about prohibited transactions under section 276 of the SFO;
 - (e) Disclosure of false or misleading information inducing transactions under section 277 of the SFO; and
 - (f) Stock market manipulation under section 278 of the SFO.
4. Pursuant to section 257(1)(e) of the SFO, the Specified Person shall pay to the Government costs and expenses reasonably incurred by the Government in relation or incidental to these proceedings, to be taxed if not agreed.
5. Pursuant to section 257(1)(f)(i) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred by the SFC in relation or incidental to these proceedings, to be taxed if not agreed, with a certificate

for two counsel.

6. Pursuant to section 257(1)(f)(ii) of the SFO, the Specified Person shall pay SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out before these proceedings were instituted, in the agreed sum of HK\$830,898.
7. Pursuant to section 257(1)(f)(iii) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out for the purposes of these proceedings, in the agreed sum of HK\$3,100.
8. Pursuant to section 264(1) of the SFO, notice be given to the Registrar of the High Court for this Order to be registered in the Court of First Instance.
9. Pursuant to section 264(2) of the SFO, this Order be filed with the Registrar of the Companies as soon as reasonably practicable.”

These proposed orders predate the Chairman’s Ruling on the Interpretation of Section 257(1)(d) of the SFO. After that Ruling was published the SFC filed a submission in which it sought an additional order, namely one under section 257(1)(d) for the amount of HK\$5,617,540. Mr Iu does not consent to such an order being made and asks the Tribunal to have regard to his impecunious financial situation.

78. The orders, and their statutory basis under the SFO, can be summarised as being:

- (i) a disqualification order under section 257(1)(a);
- (ii) a cold shoulder order under section 257(1)(b);
- (iii) a cease and desist order under section 257(1)(c);
- (iv) an order to pay to the Government the amount of the profit gained from the market misconduct under section 257(1)(d); and
- (v) a costs order under section 257(1)(e) and (f).

79. The fact that the parties agreed to the Tribunal making certain orders and agreed to the terms of these orders in no way binds the Tribunal, and this is acknowledged by both the SFC and the former legal representatives for Mr Iu. Nevertheless, the Tribunal recognises that the SFC, as regulator, possesses a knowledge and experience of the operation of the SFO within the marketplace that the Tribunal does not possess. That knowledge and experience merits the respect of the Tribunal and so it is only natural that the Tribunal will be “guided by the agreement that the regulator, the SFC, has reached concerning the sanction to be imposed”.¹¹

The Legal Principles Relating to the Orders in Section 257 of the SFO

80. We set out below the legal principles relating to the orders the Tribunal can make under section 257 of the SFO.

¹¹ Per Harris J in *SFC v Yeung Kui Wong and others*, HCMP 1742/2009, unreported, 9 April 2010, at [5]. This statement of principle was followed by Barma J in *SFC v Li Wo Hing and others*, HCMP 1023/2011, unreported, 26 September 2012, at [5].

General Principles

(i) The twin objectives of the orders under section 257(1)(a) – (c)

81. It must be emphasised that orders under section 257(1)(a) – (c) are not imposed as a punishment but only after the Tribunal has satisfied itself that there is a need for the orders. Whether there is such a need must be addressed by having regard to the objectives or purposes that these orders serve. The primary objective of these orders is to protect shareholders, investors and the public with a secondary objective of deterring the Specified Person and others from engaging in this form of misconduct. The orders should only be made once it is shown that they are needed to achieve these objectives.

82. In his judgment in *Koon Wing Yee v Insider Dealing Tribunal*¹², Sir Anthony Mason described the nature of the disqualification order under the Securities (Insider Dealing) Ordinance (repealed) (“**SIDO**”) as protective rather than as punitive. Responding to an argument that the deterrent effect of such an order was punitive, and whilst not denying it had such an effect, he said “that effect is incidental and subservient to the purpose of protecting shareholders, investors and the public from corporate officers who are unfit to hold office”. The point that Sir Anthony Mason was making is that even though the effect of deterrence is felt by the Specified Person, its primary purpose is not to punish.

83. Sir Anthony was certainly not saying that deterrence is not a legitimate

¹² (2008) 11 HKCFAR 170.

consideration when determining whether one or more of these sanctions is needed. After all, the purpose of deterrence, which is manifest in any court imposed punishment or tribunal imposed disciplinary measure, is always to protect and advance societal goals and interests. Within the SFO it is a valuable tool in protecting the range of public interests that can be impacted by market misconduct in its different forms or by any other breach of the provisions of the SFO. These public interests are protected when the Specified Person is deterred from re-offending and they are especially protected when others are deterred from also engaging in market misconduct.

84. But, and this is perhaps stating the obvious, an order cannot have any chance of deterring unless its effect is felt by the individual on whom the punishment or disciplinary measure is imposed. It is the sting in the order which gives it a punitive impact and it is only by everyone realising that there will be unpleasant consequences for conduct in breach of the SFO that the order is able to have the desired deterrent effect.

85. We note that within the SFO there is another director disqualification power. It is contained in section 214(2)(d) and it enables the Court of First Instance to disqualify a director for up to 15 years when it is of the opinion that the business or affairs of a corporation have been conducted in any of the improper ways referred to in section 214(1). In *Securities and Futures Commission v Fung Chiu*¹³ Susan Kwan J commented on section 214(2)(d) of the SFO as follows:

“I bear in mind two important objectives in the exercise of this jurisdiction to make

¹³ [2009] 2 HKC 19 at 23A–C.

disqualification orders: firstly, protection of the public against the future conduct of persons whose past records as directors of listed companies have shown them to be a danger to those who have dealt with the companies, including creditors, shareholders, investors and consumers; and secondly, general deterrence in that the sentence must reflect the gravity of the conduct complained of so that members of the business community are given a clear message that if they break the trust reposed in them they will receive proper punishment. ”

Although Kwan J was commenting on a different section of the SFO her observations are a very succinct summary of the objectives underlying the exercise of the section 257(1)(a) power.

(ii) There must be a need for orders under section 257(1)(a) – (c)

86. The importance of not making any of the orders under section 257(1)(a) – (c) of the SFO unless there is a need for them was emphasised by the Tribunal in its Report on Bank of China Limited where it said:

“68. Unless the leave of the Court of First Instance is first obtained, a cold shoulder order has the effect of prohibiting a person who is the subject of the order from any dealings, direct or indirect, in the Hong Kong financial market for the life of the order. Put succinctly, the person is shut out entirely from the market for the life of the order. For a person whose profession is based on the ability to have access to the market it is potentially a Draconian prohibition. It is not therefore an order to be imposed as a matter of course.

...

80. Finally, for the avoidance of ambiguity, it needs to be clearly stated that cold shoulder orders and cease and desist orders, being imposed in order to protect the integrity of the market and not by way of a penalty, are only to be imposed when, in the view of the Tribunal, there is a requirement for protection.”

(iii) Assessing the need for section 257(1)(a) – (c) orders: the context

87. This assessment of the need for section 257(1)(a) – (c) orders must be conducted against the backdrop of the importance of what it is that is sought to be protected, namely, the investing public, Hong Kong’s financial markets and Hong Kong’s status as an international financial centre. These are all very strong public interests which go to the core of Hong Kong’s prosperity. In the Market Misconduct Tribunal’s Report on Bank of China Limited, it was said:

“79. When looking to the purpose of protective orders such as cold shoulder and cease and desist orders it is important, we think, to take into the account the importance of what is sought to be protected. What is sought to be protected is the integrity of Hong Kong’s financial markets. Our courts (in both the criminal and regulatory jurisdictions) have pointed out on numerous occasions the degree to which the prosperity of Hong Kong relies on its financial industry and the degree to which the strength of that industry in its turn is reliant on the perception of all market participants, both local and international, that it is an orderly-run, transparent market.”

88. In *Luk Ka Cheung v The Market Misconduct Tribunal*¹⁴ A Cheung J, with whom Hartman JA agreed, echoed the comments made by the Court of Final Appeal in *Koon Wing Yee* and by Hartmann and Lam JJ in *Chau Chin Hung v Market Misconduct Tribunal*¹⁵ on the protective nature of the sanctions available to the Tribunal. A Cheung J said:

“52. In my view, quite plainly, looking at the dual regimes under the Ordinance, and particularly the Part XIII scheme, the purpose is to protect and maintain the integrity of the financial markets in Hong Kong, thereby enhancing and preserving Hong Kong’s reputation as an international financial centre. It is regulatory in nature. The investing public, and therefore public interest at large, is protected in the sense that the regime ensures the integrity of the financial markets in which the investing public carry on their investment or trading activities. ...”¹⁶

(iv) Assessing the need for section 257(1)(a) – (c) orders: matters to be considered

89. In order to determine whether there is a need to protect the public and to deter the Specified Person and others, the Tribunal must conduct assessments of the gravity of the misconduct, the character of the Specified Person and the risk of others engaging in similar misconduct. The gravity of the Specified Person’s misconduct speaks to his character. The Tribunal’s assessments of the gravity of the conduct and of the character of the Specified Person, including the

¹⁴ [2009] 1 HKC 1.

¹⁵ HCAL 123/2007, unreported, 22 September 2008.

¹⁶ In their joint judgment in *Chau Chin Hung*, Hartmann and Lam JJ applied the comments of Sir Anthony Mason in *Koon Wing Yee*, in respect of SIDO disqualification orders, to the power in section 257(1)(a) of the SFO to make a disqualification order.

motivation for his misconduct, will assist the Tribunal in its assessment of the risk of the Specified Person reoffending.

90. In conducting the assessments, and bearing in mind the importance of the public interests to be protected, the Tribunal will have regard to a broad range of matters amongst which will be the following:

- (i) the nature, duration and purpose of the breach of, or non-compliance with, the regulatory provision and any benefit the Specified Person obtained from the breach or non-compliance, whether in profit gained or loss avoided;
- (ii) the impact of the breach or non-compliance on others or on the market;

These matters, together with (iii) below, go to the gravity or seriousness of the Specified Person's breach of, or non-compliance with, the regulatory provision.

- (iii) the importance to the integrity of Hong Kong's markets of compliance with the regulatory provision and the potential for a breach of, or non-compliance with, that provision to cause harm to Hong Kong's reputation as an international financial centre;
- (iv) the frequency that the regulator encounters such conduct in the market;

These matters, together with those in (i) – (ii) above, are relevant to the question of whether there is a need for the Tribunal's order to contain an element of general deterrence so as to protect Hong Kong from future breaches of, or non-compliance

with, regulatory provisions.

- (v) the character of the Specified Person, including any remorse exhibited;
- (vi) whether the Specified Person has cooperated with the regulator and assisted the regulator in its investigation;
- (vii) the criminal and regulatory history of the Specified Person¹⁷ including in the period from the time the market misconduct was committed to the hearing by the Tribunal;
- (viii) the likelihood of the Specified Person re-offending and how great a need there is for the Tribunal's order to contain an element of personal deterrence;
- (ix) the likely impact of the order on the Specified Person; and
- (x) the likely adverse impact of the order on any innocent third party, including any corporation with which the Specified Person has been associated.

These remaining matters deal with the Specified Person's character and, together with (i) and (ii) above, are relevant to the risk of his reoffending. They are also relevant as either mitigating the Specified Person's misconduct or, where he has a history of prior offending or shows no remorse or has sought to frustrate the regulators' investigation or, for whatever reason, presents as a high risk of reoffending, as aggravating the Specified Person's misconduct.

¹⁷ See section 257(2) of the SFO.

Although addressing these matters will assist the Tribunal in making its assessments, the relevance and importance of each of these matters to the assessments will necessarily vary from case to case.

91. After these assessments have been completed it should be clear to the Tribunal whether there is a need for shareholders, investors or the public to be protected from the Specified Person and whether his misconduct is so grave that the civil sanctions imposed on him should contain an element of deterrence against future offending by him and by others. The Tribunal will then decide whether it should make an order and, if so, what order it should make.

Legal Principles Relating to Each Order

(i) Disqualification Order: Section 257(1)(a) of the SFO

92. A disqualification order is an order that the Specified Person “shall not, without the leave of the Court of First Instance, be or continue to be a director, liquidator or receiver or manager of the property or business, of a listed corporation or any other specified corporation or in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation for the period (not exceeding 5 years) specified in the order”.

93. Earlier in this chapter we referred to the director disqualification power

that is contained in section 214(2)(d) of the SFO¹⁸ which has a maximum disqualification period of 15 years. In respect of section 214(2)(d)'s 15 year period we note that the Court of First Instance has employed an approach adopted in the United Kingdom in respect of its director disqualification regime which is set out in section 6 of the Company Directors Disqualification Act, 1986. That Act contained maximum and minimum periods of disqualification of 15 years and 2 years respectively.¹⁹ In *Re Sevenoaks Stationers (Retail) Limited* the Court of Appeal of England and Wales endorsed a division of the 15 years into three tiers of seriousness as set out in the following passage from the judgment of Dillon LJ at page 174 of the report:

“I would for my part endorse the division of the potential 15-year disqualification period into three brackets, ... viz.: (i) the top bracket of disqualification for periods over 10 years should be reserved for particularly serious cases. These may include cases where a director who has already had one period of disqualification imposed on him falls to be disqualified yet again. (ii) The minimum bracket of two to five years' disqualification should be applied where, though disqualification is mandatory, the case is, relatively, not very serious. (iii) The middle bracket of disqualification for from six to 10 years should apply for serious cases which do not merit the top bracket.”²⁰

94. The maximum disqualification period of 15 years in the United Kingdom legislation and section 214(2)(d) of the SFO lends itself to this neat

¹⁸ See [85] of this chapter.

¹⁹ However, unlike the United Kingdom provision, section 214(2)(d) has no minimum disqualification period.

²⁰ See *Securities and Futures Commission v Cheung Keng Ching* [2011] 4 HKC 453; *Re Styland Holdings Limited* [2011] 1 HKLRD 96; *Re First China Financial Network Holdings Limited* [2015] 5 HKLRD 530.

division of the period into a three tier classification with each tier consisting of a 5 year range. The maximum disqualification period of 5 years that is contained in section 307N(1)(a) results in a much smaller range of 20 months for each tier but we are of the view that is still broad enough to accommodate the range of culpability the Market Misconduct Tribunal is likely to encounter. We note that other Market Misconduct Tribunals have employed an adapted three tier *Sevenoaks* approach to the lesser five year disqualification period²¹. We are satisfied that this method of classifying levels of seriousness remains useful and are content to employ it in the present case.

95. This brings us to the question of how to apply this regime to determine the period of disqualification that is appropriate for a particular Specified Person. In *SFC v Yeung Kui Wong and others*²² Harris J was dealing with this question in respect of a disqualification order being made under section 214(2)(d) of the SFO. He referred with approval to comments made by the English Court of Appeal. He said:

“9. In *Re Westmid Packing Services Ltd.* [1998] 2 BCLC 646, the Court of Appeal in England gave useful guidance as to the relevant factors for determining the length of the disqualification period under the Companies Directors Disqualification Act 1986:-

²¹ See The Report of the Market Misconduct Tribunal in relation to the securities of Yorkey Optical International (Cayman) Limited at [56] – [57], chaired by Mr K Kwok SC and dated 27 February 2017 and The Report of the Market Misconduct Tribunal in relation to the securities of Magic Holdings International Limited at [670] – [671], chaired by Mr M Lunn GBS and dated 10 March 2021.

²² Unreported HCMP 1742/2009, 9 April 2010.

- “(1) It is of the greatest importance that any individual who undertakes the statutory and fiduciary obligations of being a company director should realise that these are personal responsibilities.
- (2) The primary purpose of disqualification is to protect the public against the future conduct of companies by persons whose past records as directors of insolvent companies showed them to be a danger to creditors and others. Other factors also come into play in the wider interests of protecting the public, i.e. a deterrent element in relation to the director himself and a deterrent element as far as other directors are concerned.
- (3) The period of disqualification must reflect the gravity of the offence.
- (4) The period of disqualification may be fixed by starting with an assessment of the correct period to fit the gravity of the conduct, and a discount is then given for mitigating factors.
- (5) A wide variety of factors, including the former director’s age and state of health, the length of time he has been in jeopardy, whether he has admitted the offence, his general conduct before and after the offence, and the periods of disqualification of his co-directors that may have been ordered by other courts, may be relevant and admissible in determining the appropriate period of disqualification.” ”

96. We, also, have found these comments helpful in exercising our section 257(1)(a) power. They set out a process for determining the duration of a

disqualification order that essentially involves the following three steps:

- (i) assess the gravity of the conduct;
- (ii) determine, as a starting point, a period of disqualification to fit that level of gravity; and
- (iii) discount this starting point to allow for any mitigating factors.

97. In *Re Styland Holdings Limited*²³ Thomas Au J also addressed the question of the matters to which regard should be had when exercising the section 214(2)(d) disqualification power. He said:

“In considering what is an appropriate period of disqualification, the court takes into account a broad spectrum of considerations with the dual objective of protecting the public and deterrence.”

98. After quoting Lord Woolf MR in *Re Westmid Packing Services Ltd*, the English Court of Appeal judgment which Harris J quoted with approval in *Yeung Kui Wong*, Thomas Au J continued:

“8. There are also eight criteria which govern the court’s exercise of the power of disqualification, namely:

- (1) Character of the offenders;
- (2) Nature of breaches;

²³ [2011] 1 HKLRD 96 at [6].

- (3) Structure of the companies and the nature of their business;
- (4) Interests of shareholders, creditors and employees;
- (5) Risks to others from the continuation of offenders as company directors;
- (6) Honesty and competence of offenders;
- (7) Hardship to offenders and their personal and commercial interests;
- (8) Offenders' appreciation that future breaches could result in future proceedings.”

99. In essence, Thomas Au J's "broad spectrum of considerations" is encompassed in all those matters we have mentioned in [90] of this Report. The matters that go to the gravity of the Specified Person's misconduct will determine into which tier of seriousness the Specified Person falls. The matters that deal with the Specified Person's character and risk of reoffending will guide the Tribunal to where within each tier the Tribunal should make its order. They may, exceptionally, cause the Tribunal to place the Specified Person into a higher or lower tier.

(ii) Cold Shoulder Order: Section 257(1)(b) of the SFO

100. This order prohibits a person, without the leave of the Court of First Instance, directly or indirectly, from acquiring, disposing or otherwise dealing with securities, futures contracts or leveraged foreign exchange contracts or an interest in them, for up to a maximum period of 5 years. As we have said, this

type of order, like a disqualification order, is not imposed as a penalty but as a measure to protect the market. It should only be imposed when the Tribunal is of the view that the Specified Person poses a threat to the integrity of the financial markets. In *Chau Chin Hung*, Hartmann and Lam JJ said:

“34. In our judgement, a ‘cold shoulder’ order serves the same essential purpose as a disqualification order. It is not penal in character. It is protective. The integrity of the financial markets must be safeguarded and if it has been demonstrated that a person cannot be trusted to operate in the markets in accordance with the requirements of the Ordinance, then he can be prevented from doing so for such period of time as the Tribunal considers appropriate. A cold shoulder order serves to protect financial institutions as well as the investing public.

35. Yes, of course, the consequence of a cold shoulder order may be damaging to the identified person but that does not detract from the primary purpose and essential character of the order. ...”²⁴

101. As to the duration of such an order the Bank of China Tribunal said in its Report:

“73. A cold shoulder order may be imposed for a maximum of five years. What is the appropriate length of an order lies within the discretion of the Tribunal, that discretion being exercised in the light of all relevant circumstances. Clearly, one of the relevant circumstances in determining the length of an order will relate to the nature of the market misconduct that has been proved. The more systematic that conduct, the clearer the intent to disregard the statutory provisions, regulations and

²⁴ *Chau Chin Hung v Market Misconduct Tribunal*, HCAL 123/2007, unreported, 22 September 2008.

codes of conduct governing the principled participation in the market, the greater the damage actually occasioned or intended, then, absent other compelling factors, the longer the life of the order is likely to be. This is not because the order is imposed as a punishment. It is because the greater the threat to the integrity of the market exhibited by proven conduct the more extensive the need for protective measures.”

102. Unless there is some special consideration or indication to suggest otherwise, the duration of the cold shoulder order is likely to be at least as long, if not longer than, the disqualification order. Although the two orders cover different aspects of the Specified Person’s life, if the Specified Person cannot be trusted to be a director then it is likely that he cannot be trusted to deal in securities.

(iii) Cease and Desist Order: Section 257(1)(c) of the SFO

103. This order was described by Hartmann and Lam JJ in *Chau Chin Hung* as follows:

“36. S.257(1)(c) of the Ordinance gives the Tribunal the power to issue what are often described as ‘cease and desist’ orders. These are orders in terms of which a person who has been identified as a perpetrator of some form, or forms, of market misconduct is made the subject of a warning–

“... that the person shall not again perpetrate any conduct which constitutes such market misconduct as is specified in the order (whether the same as the market misconduct in question or not).”

37. In plain language, as we see it, the Tribunal is given the power to demand that an identified person shall in future act professionally, avoiding what has been identified by the Tribunal – even if the person should contest it – to be a form, or forms, of market misconduct.

38. In our view, such demands, or warnings, are intended to do no more than look to the future protection of the financial markets. To that extent, such orders are preventative and not penal.”

104. Although preventative and intended to look to the future protection of the public and the markets, there is no requirement that the Tribunal determine that the Specified Person is likely to reoffend. Nor must the order be limited to the type of misconduct in which the Specified Person has been found to have committed. This is because section 257(5) provides:

“The Tribunal may, in relation to any person, specify any market misconduct in an order under subsection (1)(c), whether or not there is, at the time when the order is made, likelihood that the person would perpetrate any conduct which constitutes the market misconduct.”

105. Section 257(1)(c) and (5) were discussed by the Court of Appeal in *Chau Chin Hung and Others v Market Misconduct Tribunal and Others*²⁵ where it was held that a cease and desist order may be made in respect of all market misconduct notwithstanding that not all the different forms of market misconduct were raised in the SFC’s section 252(2) notice or were the subject of a finding by

²⁵ CACV 62/2009, unreported, 22 December 2009.

the Tribunal. In this case an attack was mounted by the applicants on the Tribunal making the cease and desist order in perpetuity. The Court of Appeal held that the making of such an order was an exercise of discretion and the legislation contemplated and permitted the making of in perpetuity orders.

106. Given the nature of this type of order, which has been described as “a form of permanent injunction”,²⁶ it is not surprising that there is no limit in respect of its duration.

107. This order is not a meaningless statement by the Tribunal in which it merely encourages the Specified Person to behave in the future. Section 257(10) makes it an offence for a person to fail to comply with an order made under subsection (1)(a), (b) or (c). The maximum sentence for this offence, when it is tried on indictment is a fine of HK\$1,000,000 and imprisonment for 2 years. Thus, there are quite severe consequences for non-compliance with the order.

(iv) Payment of Profit Order: Section 257(1)(d) of the SFO

108. This order has been discussed in detail in the Chairman’s Ruling on the Interpretation of Section 257(1)(d) of the SFO which is at **Annexure F** of this Report.

109. In accordance with that Ruling, the Tribunal is directed that in determining whether it should make an order under section 257(1)(d) of the SFO

²⁶ Report of Market Misconduct Tribunal on Bank of China at [75].

the Tribunal does not have to be satisfied that the identified person received or enjoyed the benefit of the illicit profit or was in a position to exercise control over it. All that needs to be shown are that the identified person committed market misconduct, as a result of which a profit was gained or a loss was avoided. Once that is proven, the Market Misconduct Tribunal is empowered to make a section 257(1)(d) order against the Specified Person.

110. But, having the power does not mean it has to be exercised and exercised to its full extent. It will always be for the Tribunal, in the exercise of its discretion, to determine whether, in the particular circumstances of the case before it, an order is warranted and, if so, the terms of that order.

111. In exercising its discretion the Tribunal must bear in mind the purpose of section 257(1)(d) which is to ensure that the Specified Person is not successful in gaining a profit, or avoiding a loss, from his market misconduct and “to restore the *status quo ante*” as Hartmann and Lam JJ said in *Chau Chin Hung and another v Market Misconduct Tribunal and another*.²⁷

112. Given the legal directions to the Tribunal on how section 257(1)(d) is to be interpreted and given the admissions made by the Specified Person, the evidential, issue of whether an order *can* be made, as opposed to whether it *should* be made, does not arise. But, all the factual background is still relevant to the issues of whether, in the exercise of its discretion, the Tribunal should make an order and, if so, the terms of that order. That being so, we make the following

²⁷ HCAL 123/2007, 124/2007, 22/2008 at [42].

observations on the drawing of inferences that are relevant to the exercise of that discretion.

113. How the Tribunal exercises its discretion will very much depend on what inferences are available to be drawn by the Tribunal from the evidence. In this regard we note that inferences are not drawn in a vacuum but rather against the backdrop of the real world in which we live. The inferences must reflect the reality of our world and must be drawn by the Tribunal using its common sense, knowledge of everyday life and experience of human nature.

114. Bearing this in mind, we do not agree with the SFC that the fact that the identified person used his mother's account to conduct the profitable trades, with the consequence that the profits gained were deposited into that account, on its own, allows of only one inference, namely that the profits were for the benefit of the mother and were not, therefore, profits gained by the identified person.

115. Any kind of white collar crime or money laundering or merely improper conduct under the SFO may involve the use of third party identities and their bank accounts or other forms of accounts. This is usually done, and we are perhaps stating the obvious, not to confer a benefit on the third party but rather to conceal the involvement of the offender and to distance him from his offending. This, it seems to us may, in many cases, be the natural and realistic inference to be drawn. Even when the account belongs to a close relative, the inference that the offender's use of this account was for the purpose of concealing his involvement in the offending, rather than for the purpose of conferring a benefit on the close relative,

would, in the absence of evidence that would suggest otherwise, still be one that the Tribunal would have to consider. **It is greed, and not altruism, that is the usual motivator of dishonest conduct** that is perpetrated in order to generate an illicit monetary gain.

116. Nor would we readily draw an inference that just because the identified person has no legal right to transfer monies from this account he must have intended the third party account holder to keep the profit for himself or herself or that he had no ability to access, or influence what happened to, those monies. If the identified person made use of the third party's account in order to conceal his offending, then it may be that he did so knowing that he would be able to access the profits from his offending with the assistance of the account holder, who may or may not be complicit in the offending.

(v) Costs Orders

117. Costs orders perform a different role from the orders under section 257(1)(a) – (d). The orders under section 257(1)(a) – (c) are, as we have said, protective in purpose and nature and the purpose of the section 257(1)(d) order is to deny the Specified Person the profit gained or loss avoided from his market misconduct. Costs orders, however, are compensatory in nature and are intended to ensure that neither the SFC nor the Government are out of pocket as a consequence of the Specified Person's market misconduct. There is no reason why the Hong Kong public should have to pay to correct a wrong committed upon it by the Specified Person.

(a) Costs of the Proceedings Order: Section 257(1)(e) of the SFO

118. Under section 257(1)(e) the Tribunal may order that the Specified Person “pay to the Government the sum the Tribunal considers appropriate for the costs and expenses reasonably incurred by the Government in relation or incidental to the proceedings”.

119. The proceedings are the proceedings of the Tribunal instituted under section 252 of the SFO. Given the existence of the power under section 257(1)(f) care must be taken to distinguish the Government’s costs from the SFC’s costs. The Government’s costs are essentially those expenses it incurred in carrying out the Market Misconduct Tribunal hearing.

(b) Costs of the SFC: Section 257(1)(f) of the SFO

120. Under section 257(1)(f) the Tribunal may order that the person pay to the Commission the sum the Tribunal considers appropriate for the costs and expenses reasonably incurred by the Commission, whether in relation or incidental to—

- “(i) the proceedings;
- (ii) any investigation of the person’s conduct or affairs carried out before the proceedings were instituted; or
- (iii) any investigation of the person’s conduct or affairs carried out for the purposes of the proceedings.”

121. This power covers every aspect of the SFC's involvement in the Specified Person's misconduct including its expenses incurred prior to, for the purpose of, and during the proceedings before the Tribunal. The SFC's costs and expenses reasonably incurred in relation or incidental to these proceedings have not yet been identified and if not agreed will have to be taxed. The SFC's costs in relation to the pre-hearing investigation have been agreed at \$830,898. The SFC's costs of investigation carried out for the purposes of the Tribunal's proceedings are agreed at \$3,100.

122. The Specified Person has not sought to resile from the agreements he has reached in respect of any of the costs orders but he has asked the Tribunal to have regard to his current financial situation.

Chapter 6

An Assessment of the Specified Person's Culpability

The Matters to be Considered

123. The orders that the Tribunal should make will, of course, depend upon its assessment of the culpability of the Specified Person. Relevant to that assessment will be:

- (i) the nature of the false trading;
- (ii) the extent and duration of the false trading;
- (iii) the impact upon the market of the false trading;
- (iv) what the Specified Person was seeking to achieve by the false trading;
- (v) the outcome of the false trading in terms of how successful the Specified Person was in achieving his goal; and
- (vi) the harm caused, or the potential for harm to be caused to Hong Kong's reputation as an international financial centre.

124. It is important to note that culpability is not determined by a mathematical measure of how much profit was gained or the size of any loss avoided by the false trading, although these aspects of it will, of course, be highly relevant to the Tribunal's assessment of culpability. In *SFC v Lee Sing Wai*

McMahon J said in respect of the offence of false trading when²⁸ responding to a submission that a sentence of 7 months' imprisonment was for this offence too severe:

“8. I disagree. Firstly, this was a sophisticated and relatively large scale operation. It was also extremely cynical as all such operations are. That is because, to make a profit, the members of the group had to sell their share holding in Essex at an artificially inflated price. That meant the persons they sold those shares to would foreseeably eventually lose a substantial portion of the moneys they paid for the shares when ordinary market forces returned the shares to their economic price.

9. Other innocent members of the investing public would be misled by the false price and turnover created in respect of the shares and purchase them without being aware that there was a premium attached to the price they paid attributable to the groups dishonesty. This was, in other words, a selfish and blatant offence designed not only to bring profit to members of the group but to likely cause loss to members of the investing public. In those circumstances, a sentence of immediate imprisonment was justified. Offences such as the present are not merely regulatory or technical offences, they amount to frauds on the investing public.

10. It was suggested by the appellant during the appeal that in virtually all previous such prosecutions sentences of suspended imprisonment were handed down. I am surprised by that. These offences are serious and cause real and substantial losses to investors and bring an important part of Hong Kong's economy

²⁸ HCMA 132/2006, unreported 29 March 2006.

into disrepute. Sentences of imprisonment, in my view, cannot be complained of even for first offenders.

11. The level of sentence will obviously depend on the circumstances of the case of which the most important will usually be the scale of the operation underlying the offence.”

125. The comments of McMahon J resonate with what took place in the present case, even allowing for the fact that they were made in the context of a prosecution for the offence form of false trading. Even though the Tribunal is only dealing with false trading in its market misconduct form, the actions of the Specified Person nevertheless reveal that his conduct was deliberate and that its purpose was to undermine the integrity of our market and to distort its operations so that a profit would be gained at the expenses of others. These matters elevate the misconduct to a very serious level.²⁹

126. But, only examining the market misconduct and its impact on others and on Hong Kong does not enable us to make a complete assessment of the Specified Person’s culpability. We must also have regard to what is known of the character of the Specified Person and this is done by addressing all the matters set out in [90 (v) – (ix)] of this Report.

²⁹ See the observations of Hartmann and Lam JJ in *Chau Chin Hung & Another v Market Misconduct Tribunal and Another* HCAL 123/2007, unreported, 22 September 2008 at [23].

(i) The nature, extent and duration of the false trading

127. The false trading of shares involved only two listed companies and, on the evidence that the SFC was able to obtain, the Tribunal must find that it lasted a period of only two months, namely from 1 August 2014 to 30 September 2014. It was executed in a way which would cause losses to the Fund and enable Mr Iu's mother's trading account to gain a profit. Being limited to the shares of only two listed companies and being for only a very specific and relatively limited period of time the false trading did not generate huge profits, relative to the kind of profits that can be generated from a large scale false trading operation.

(ii) The impact upon the market of the false trading

128. What impact Mr Iu's conduct had on the market generally is not fully known, but what is known is that not all the trades were between only Ms Iu and the Fund and so it is reasonable to infer that some members of the public must have been affected by Mr Iu's misconduct.

129. Furthermore, the profit that Mr Iu achieved was at the expense of the Fund which had four other unit holders. Consequently, Mr Iu acted in breach of the trust that these other unit holders had placed in him. Instead of acting in the best interests of the Fund he acted adversely to their interests in order to generate the profit that he gained from his false trading. In the absence of any evidence that the other unit holders had any knowledge of what Mr Iu was doing, the only possible conclusion is that they are victims of his market misconduct. We have

not been informed whether Mr Iu has compensated the Fund, or the unit holders, for the losses incurred by the Fund or what action, if any, they may be taking to recoup their losses. However, from the character reference letters provided by them we do know what their current attitude is, as victims, to the Specified Person. Their letters are totally devoid of ill-will and any injury they may have suffered appears to have been forgiven.

(iii) Mr Iu's goal and the outcome of his false trading

130. The purpose of any false trading will usually be to manipulate the market for personal gain. Mr Iu has chosen not to disclose what motivated his misconduct and the only inference we can draw from his admitted intentional false trading was, likewise, to manipulate the market for unlawful gain. The pattern of the false trading reveals a clear intention to generate a profit for the mother's account at the expense of the Fund.

131. However, the obvious questions of why Mr Iu did what he did and what happened to the profits gained remain unanswered. The protestations by both Mr Iu's mother of poor recollection and fading memory do not impress and Mr Iu's claimed ignorance of what happened to the profits also strains credulity. Mr Iu's less than full and frank cooperation with the SFC in answering these questions is not consistent with his claim of being truly remorseful for his actions.

132. The SFC has done all that can be done to determine the answers to these questions but there is no direct evidence in respect of them and, unfortunately, the

circumstantial evidence does not allow inferences to be drawn that would enable answers to be made to them.

133. This much we know from the SFC's further investigations:

- (i) Mr Iu traded in CVG and YBD shares using his mother's account and accounts that he had access to when trading for the Fund;
- (ii) the mother's trading account was linked to her bank account and the monies to fund her trades, and the profits from her trades, came from and were deposited into her bank account;
- (iii) although Mr Iu had authorised access to his mother's trading account, he had no access to her bank account and nor did anyone else;
- (iv) other than knowing that the monies to fund Ms Iu's trades came from her bank account, it is not possible to identify the source of the funds used by Mr Iu to trade using his mother's account and whether they were, in fact, the mother's. The SFC concluded:

“The Commission is unable to conclude whether Mr Iu could have funded the securities trading in Ms Iu's account.”;

- (v) during 2014 there were transfers of funds between the bank accounts of Mr Iu and his mother and also from June 2016 to June 2023 when, in this latter period, Ms Iu traded in CVG shares. However, these do not match with the profits gained from trading CVG and YBD shares in the mother's account. The SFC

concluded:

“The Commission is unable to establish a correlation between Mr Iu’s trading and the funds transferred from Ms Iu to Mr Iu (or the other way round).”;

- (vi) there is no evidence of further false trading between 2018 and 2023.

134. The SFC’s further investigations do not allow an inference to be drawn other than that:

- (i) there is nothing to suggest that Ms Iu did not own the monies that were used by Mr Iu to conduct trades on her account;
- (ii) the profits from Mr Iu’s trades on his mother’s account were deposited into her bank account;
- (iii) no-one, other than Ms Iu, had access to or control over the funds in her bank account; and
- (iv) the funds transfers between Mr Iu’s and Ms Iu’s bank accounts cannot be linked to the profits gained from Mr Iu’s trading using his mother’s account.

Given that it is a reasonable inference that a son, with the opportunity and ability to gain an illicit profit, might wish to do so in order to benefit his mother, the only inference the Tribunal can draw is that Mr Iu’s false trading was conducted in order to benefit the mother. The Tribunal accepts that, on the facts available to

it, the mother cannot be shown to have been a knowing participant in Mr Iu's market misconduct although it does not accept her claim of fading memory and poor recollection. The Tribunal accepts that because it is unable to determine what happened to the profits gained once they were deposited into Ms Iu's bank account, it cannot be shown that Mr Iu personally enjoyed any part of the profits gained. Nor is the circumstantial evidence sufficient to draw an inference to this effect.

135. In view of the Chairman's ruling on section 257(1)(1)(d) it matters not who the ultimate beneficiary was of that gain, whether the Specified Person himself or his mother or, if both he and his mother, how much of the profit gained each received. All that matters is that the Specified Person deliberately manipulated the market in order to generate an illicit profit and succeeded in doing so to the extent of \$5,617,540.

Mitigating Matters

136. When Mr Iu had legal representation written submissions were filed on his behalf. In those submissions the following matters in mitigation were advanced:

- (i) Mr Iu's full and frank admissions showed "his remorse and his willingness to face up to the consequence of his action";
- (ii) Mr Iu's willingness to cooperate and admit his misconduct "substantially saved the time and costs of all parties and the

Tribunal”;

- (iii) Mr Iu’s admissions “should attract a significant reduction in the period of disqualification and cold shoulder order **Ngai Hing Hong Company Limited Report**, 23 July 1998, p. 54”;
- (iv) **Mr Iu is expected to pay HK\$2.5 million in costs.** “This is on top of the immeasurable damage to his reputation as hedge fund manager, which in turn will inevitably adversely affect his future earning capacity”;
- (v) Mr Iu’s conduct was not a sophisticated scheme and this is “an important factor to be considered and should place Mr Iu’s culpability towards the lighter end of the scale”;
- (vi) Prior to the present case Mr Iu had “almost 13 years of experience in the financial market working for various reputable securities companies”. He had “an unblemished record in the financial industry”;
- (vii) The set-up capital for the Fund “mainly consists of Mr Iu’s own capital and capital investment by his friends and/or ex-colleagues. **The Fund currently consists of only persons known personally to Mr Iu with no independent third party or institutional investors”;**
and
- (viii) “An investor of the Fund, now having been made fully aware of the current proceedings, nevertheless speaks highly of Mr Iu”. In support of this claim **a reference letter from Mr Paul Snelgrove**

was produced.

137. When Mr Iu was no longer legally represented he wrote a letter to the Chairman dated 22 September 2023 in which he informed the Tribunal of the following matters:

- (i) he is currently residing in the United Kingdom with no fixed abode;
- (ii) he is suffering from a major depressive disorder for which he is currently undergoing treatment and as a consequence of which he is not fit to participate in the Tribunal's enquiry;
- (iii) he lacks the financial resources to pay for legal representation. Having previously borrowed money to handle his earlier involvement with the SFC and the Tribunal, he is now heavily in debt;
- (iv) he did not profit from the market misconduct, directly or indirectly, and his position on this issue is as set out in his SFC interviews as well as in subsequent correspondence between the SFC and his former legal representatives;
- (v) the SFC investigated and could not prove that he personally benefited from the false trading, consequently any order to pay back the alleged profit "would be extremely unjust and unfair to me";
- (vi) this matter has taken around 10 years to conclude "and the undue

delay, itself, in my view, already represents a very heavy penalty imposed on me”;

- (vii) he will have to pay the SFC’s investigation costs, amounting to more than HK\$2 million, “and this alone would no doubt force me into bankruptcy;
- (viii) “the proceedings and the negative publicity surrounding it has had a catastrophic effect on my professional career. It has also ruined any prospects of my securing employment not only in financial services but also in any professional capacity in future”;
- (ix) there are 5 investors in the fund. He is one and another is deceased. The other three “are aware of the Tribunal’s proceedings and have vouched for my character and integrity” (Character letters from Mr Thomas Ng and Mr Kes Visuvalingam were attached to Mr Iu’s letter);
- (x) he was the third largest shareholder in the fund in 2015 and CVG had been “a core holding in the Fund since 2008 of which a total profit was made by the Fund and was a source of outsized returns for investors”;
- (xi) he is “incentivized by the performance fee to generate positive returns for the Fund, and my priority has always been to maximize the performance for the Fund”;
- (xii) he has managed the fund to the best of his abilities. It “generated positive returns in 2008, despite the financial crisis

and it received many industry awards in 2015”;

(xiii) he has never made any redemptions from the Fund and as at February 2023 was the joint largest shareholder of it;

(xiv) due to the current state of his mental health he is no longer able to manage the Fund and the SFC has been notified that the Fund will cease business on 30 September 2023; and

(xv) considering the state of his health and his financial position he asks the Tribunal “to consider my current circumstances with compassion when coming to their ruling”.

138. Subsequently, on 3 October 2023, Mr Iu forwarded to the Tribunal medical reports in support of the claims he made in this letter in respect of his mental health. These reports confirmed that he has been diagnosed as suffering from low mood and anxiety which is being treated with medication. The reports disclosed that over the course of this year Mr Iu suffered from depression and panic attacks and had at times experienced suicidal thoughts.

139. Since receipt of this letter the Tribunal has provided Mr Iu with a copy of the transcript of the proceedings dealing with the interpretation of section 257(1)(d) and a copy of the Chairman’s Ruling on this legal issue.

140. In preparation for the hearing by the Tribunal on 12 April 2024 the Chairman wrote to Mr Iu on 19 and 29 January 2024 informing him of his right to place before the Tribunal any submissions he might like to make in respect of

the orders the Tribunal might make. Such submissions could include, but were not limited to, his current medical position and his ability to pay any financial orders it was open to the Tribunal to make and specifically on whether it should make a section 257(1)(d) order and, if so, on what terms. The Chairman also informed Mr Iu that if he wished to assert that he lacked the financial means to pay any of the financial orders that the Tribunal might be minded to make it would be incumbent on him to substantiate such a claim.

141. In response to the Chairman's letters the Tribunal received a further letter from Mr Iu dated 12 February 2024. In this letter Mr Iu maintained his assertion that he is impecunious. He said he "would have extreme difficulty in coming up with the proposed reduced negotiated payment, let alone any financial aspects pertaining to a disgorgement order". He explained that all his net worth was tied to the Fund and not all the accrued performance fee was paid to him. Because he did not take a salary in the 17 years of the Fund's operation it was the performance fee on which he relied to pay for his living expenses. He also used his personal finances "to support the running costs of the Fund from 2020 as the assets under management were insufficient to do so". Ultimately, "... a total of USD1,658,868,43 has been written off or adjusted to keep the Fund solvent. The Fund was liquidated as of December 2023 with a net asset value of zero (TAAFFINALSTATEMENT.png) and thus I lost all my investment in the Fund".

142. Mr Iu said that he invested considerable sums of his own in the Fund but never made any redemptions from it. As of 2023 he was "the top shareholder in the Fund". Furthermore, he was owed HK\$4,712,661.33 by an individual

who was subsequently declared bankrupt. He has spent HK\$950,292 on legal fees and HK\$719,000 for the MMT proceedings. He currently has a Citibank Credit Card loan of HK\$950,514.36 and has only HK\$768.29 in his HSBC bank account.

143. Finally, he stated that he has no fixed abode and is temporarily staying with relatives and friends and is dependent on their charity. His Type 9 Responsible Officer licence has been revoked and the MMT proceedings “has made it impossible for me to gain employment not only in financial services but also in any professional capacity, which makes it extremely challenging for me to have any chance in paying for the SFC’s costs and disgorgement penalties”. Mr Iu then referred to his deteriorating mental health as a consequence of “the closure of the Fund and the complete wipe out of my net worth.”.

144. He concluded by saying that all his claims in respect of his financial situation can be substantiated by contacting the relevant institutions.

Conclusion

145. We accept what is contained in Mr Iu’s medical reports and we accept that the onset of Mr Iu’s mental health problems was caused by the SFC investigation into his misconduct, the duration of that investigation and the anxiety Mr Iu endured over the outcome of it. Of course, as sympathetic as we

may be to Mr Iu's current situation, we cannot ignore the fact that he brought it upon himself.

146. That being said, it is only fair to note that the investigation has taken longer than it should have. The Tribunal has been informed that the SFC commenced its investigation into Mr Iu's false trading in November 2014. Thus, almost ten years has elapsed since the commission of the market misconduct. Since that time Mr Iu has had that investigation, and the potential consequences of it, hanging over his head. This has not only caused unnecessary additional anxiety for Mr Iu, but it has meant that records that might have assisted the Tribunal in answering some of the questions that have arisen in this case are no longer available. To that extent the work of the Tribunal in performing its statutory duty has been impeded by the SFC's delay. We shall speak more on this at the end of this report.

147. We also accept that a determination by this Tribunal that Mr Iu has engaged in false trading, together with such consequential orders we may make, will inevitably impact adversely upon Mr Iu's future career prospects in the securities industry. In the long term, the price exacted on him for his false trading by those in his industry may be greater than the adverse impact of this Tribunal's orders.

148. Finally, we accept that Mr Iu has cooperated with the SFC and this Tribunal in ensuring that these proceedings are brought to a speedy conclusion. There is no doubt that a full and frank admission made at the earliest opportunity

is very significant mitigation. It reduces delay in both the institution, and the hearing, of the Tribunal's enquiry and shortens the length of that enquiry. It makes the task of the Tribunal simpler and easier and it brings the resolution of the allegation to a speedier end. All of these matters are considerable benefits to the public interest and result in the saving of public monies. Credit must be given to Mr Iu for his assistance in expediting the hearing before the Tribunal. Together with evidence of other mitigating conduct it may support a submission that the identified person is truly remorseful for his misconduct.

149. However, for the reasons we have earlier set out, we are not persuaded that his cooperation evidences genuine remorse. We say that because whilst Mr Iu admits to gaining a profit of many millions of dollars he has provided the Tribunal with no explanation for his conduct other than his admissions that it was intentional and purposeful misconduct. Even though the inference that the Tribunal draws is that Mr Iu was motivated by desire to confer an illicit windfall on his mother, such a motivation in no way lessens his culpability. Furthermore Mr Iu has left the Tribunal in ignorance of the whereabouts of these illicit profits and has made no effort to repay them. Indeed, to the contrary; he has sought to take advantage of a potential lacuna in the law which he argues prevents this Tribunal from making a section 257(1)(d) order against him. If the Tribunal had accepted his interpretation of the law it would have meant that the Tribunal would have been prevented from denying him the benefit of the profit that he gained from his market misconduct.

150. However, what makes Mr Iu's conduct particularly concerning is that it

was, as we have said, in breach of the trust that other unit holders of the Fund had placed in him. This shows a high level of dishonesty and a total indifference to the impact his conduct would have on others. He was willing to betray friends and colleagues to advance his own interests. His colleagues' apparent forgiveness of him does not excuse, or lessen, the seriousness of his misconduct, although their unanimous view that it was completely out of character does impact favourably upon the assessment of his culpability.

151. We also note that Mr Iu is a first offender. The fact that he has no adverse history with the regulator weighs strongly in his favour.

Chapter 7

The Orders of the Tribunal

152. There are a number of matters that impact upon the orders available to the Tribunal under section 257(1) and these must be addressed before the Tribunal can decide what orders it should make.

(i) The relevance of the Specified Person's claim of impecuniosity

153. This claim is only relevant to the financial orders and the question we must address is whether, if the Tribunal accepted the Specified Person's claim, it is an impediment to the Tribunal making a costs order or an order under section 257(1)(d) of the SFO.

154. The SFC submits it is not an impediment and argues that these are civil proceedings and any claim of impecuniosity does not go to the liability of the Specified Person to have costs awarded against him or to the public interest in having him stripped of his illicitly gained profit. Rather, it has relevance only to the enforcement of the Tribunal's orders. Mr Li referred us to the judgment of Fok JA (as he then was) in *Sun Focus Investment Limited v Tang Shing Bor and another*³⁰ where, at [13], Fok JA addressed an argument that awarding costs of an appeal on an interlocutory matter should not be ordered to be paid forthwith as it could stifle the plaintiffs untried suit. In rejecting this argument Fok JA

³⁰ CACV 82/2011 unreported, 18 January 2012.

commented:

“If the plaintiff’s argument were correct, so that these costs should not be payable forthwith, it would mean that impecunious litigants (assuming, for present purposes, that the plaintiff is such a litigant) would be placed in an advantageous position in respect of adverse interlocutory costs orders.”

155. We agree that the mere fact that a Specified Person is impecunious cannot absolve him of liability to have an award of costs made against him. Whether the party in whose favour the award of costs is made ultimately receives it is an incident of the enforcement process and has nothing to do with the liability to pay costs.

156. As to the order under section 257(1)(d), it would totally defeat the purpose of the order if the Tribunal were not to make it or to make it for a lesser amount. The Specified Person’s ability to pay the order becomes, as with the costs order, merely an incident of the enforcement process.

157. There are certain other matters which need to be considered before the Tribunal can determine what orders it should make in respect of Mr Iu. These matters need to be considered bearing in mind the maximum period for which the Tribunal can make these orders. As set out in Chapter 5 of this Report, the Tribunal can make disqualification and cold shoulder orders for a maximum period of 5 years and a cease and desist order for any period up to an in perpetuity order.

(ii) The need to protect Hong Kong

158. The integrity of Hong Kong's markets are crucial to its economic success. Anything that undermines that integrity or throws doubts on it, affects the favourable reputation that Hong Kong enjoys as an international financial centre. False trading is clearly conduct that, unless condemned and deterred, could have a seriously detrimental impact upon the perception of Hong Kong as a properly regulated market place and a safe place for investors to place their funds. The Specified Person's conduct clearly gives rise to a need to protect Hong Kong and this must be reflected in the orders the Tribunal makes.

159. The disqualification order agreed by the parties applies to both listed and unlisted companies. Mr Iu's false trading took place whilst he was operating and managing the private company Tarascon. Through his indifference to and disregard of the laws of Hong Kong he has clearly demonstrated both that he is unfit to be involved in the important duties of a director or manager of a company and that there is a need to protect Hong Kong from him in such roles.

(iii) The need to deter the Specified Person

160. The primary objective of the false trading provisions is to protect the market from manipulation and Mr Iu's misconduct, in its intentional circumvention of these provisions, was clearly a very deliberate abuse of the market. In view of what we have said in Chapter 6, there is clearly a need to deter Mr Iu from re-offending.

(iv) The need for general deterrence

161. The need for general deterrence exists simply as a consequence of the need to protect Hong Kong. Any incident of false trading can have a significant impact on Hong Kong's reputation as a financial marketplace and there is a very important public interest in protecting and enhancing that reputation. All this Tribunal can do in this regard is to demonstrate that this kind of market misconduct will be condemned in the strongest terms as reflected in the orders the Tribunal makes. The strength of its orders should be such as to deter others from contemplating engaging in false trading and in this way the orders of the Tribunal will protect Hong Kong.

162. An important element in providing an effective deterrence to those who may be tempted into thinking that market misconduct can be profitable is to make an order which neutralises any profit made and in the present case that can be achieved by a section 257(1)(d) order against the Specified Person even though it cannot be proven that he personally benefited from the profit gained from his false trading.

(v) The duration of the orders

163. In view of the seriousness of the misconduct and all the other matters to which we have referred in this and the previous Chapter we are satisfied that a period of 4 years is the appropriate period for the disqualification and cold

shoulder order and that the cease and desist order should be made of indefinite duration.

The Orders of the Tribunal

164. The Tribunal having determined that:

- (i) there is a need to protect Hong Kong; and
- (ii) there is a need to deter the Specified Person and others from engaging in any form of market misconduct;

makes the following orders under section 257(1) of the SFO:

1. Pursuant to section 257(1)(a) of the SFO, for a period of 48 months, the Specified Person shall not, without the leave of the Court of First Instance:
 - (a) Be or continue to be a director, liquidator, or receiver or manager of the property or business, of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates; or
 - (b) In any way, whether directly or indirectly, be concerned or take part in the management of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates.

2. Pursuant to section 257(1)(b) of the SFO, the Specified Person shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leverage foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for a period of 48 months.
3. Pursuant to section 257(1)(c) of the SFO, the Specified Person shall not again perpetrate any conduct which constitutes the market misconduct of:
 - (a) Insider dealing under section 270 of the SFO;
 - (b) False trading under section 274 of the SFO;
 - (c) Price rigging under section 275 of the SFO;
 - (d) Disclosure of information about prohibited transactions under section 276 of the SFO;
 - (e) Disclosure of false or misleading information inducing transactions under section 277 of the SFO; and
 - (f) Stock market manipulation under section 278 of the SFO.
4. Pursuant to section 257(1)(d) of the SFO, the Specified Person shall pay to the Government the amount of HK\$5,617,540 being

the profit gained from his market misconduct.

5. Pursuant to section 257(1)(e) of the SFO, the Specified Person shall pay to the Government costs and expenses reasonably incurred by the Government in relation or incidental to these proceedings, to be taxed if not agreed.
6. Pursuant to section 257(1)(f)(i) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred by the SFC in relation or incidental to these proceedings, to be taxed if not agreed, with a certificate for two counsel.
7. Pursuant to section 257(1)(f)(ii) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out before these proceedings were instituted, in the agreed sum of HK\$830,898.
8. Pursuant to section 257(1)(f)(iii) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out for the purposes of these proceedings, in the agreed sum of HK\$3,100.
9. Pursuant to section 264(1) of the SFO, notice be given to the Registrar of the High Court for this Order to be registered in the Court of First Instance.
10. Pursuant to section 264(2) of the SFO, this Order be filed with the Registrar of Companies as soon as reasonably practicable.

Delay in Commencing MMT Proceedings

165. Earlier in this Report we referred to the delay in commencing proceedings before the Market Misconduct Tribunal and how it impacted upon the Specified Person, the work of the Tribunal and the public interest. Of course, the public interest lies not just in seeing that the Tribunal is effective in carrying out the enquiry required of it by the SFO, but also in expeditiously bringing to a conclusion the investigation initiated by the SFC. Where market misconduct is proven to have occurred there is a very strong public interest in seeing that misconduct revealed, explained and punished by the Tribunal as soon as possible. Delay only puts at risk the effectiveness of the Tribunal's work and lessens the deterrence value of that work. It is the enemy of good and effective regulation of the markets.

166. For some time now different Chairmen of this Tribunal have been commenting on the systemic delay in bringing cases of market misconduct before this Tribunal. Despite those comments there has been no improvement. Something must now be done to address this state of affairs. That requires an examination of the process that takes place prior to the filing of the Notice with the Tribunal. As explained to us by Mr Li, and by the SFC in a written submission subsequently filed with the Tribunal, that process involves the following steps:

1. Conducting the investigation which is done by the SFC's Enforcement Division. This may involve conducting interviews and accessing records using the SFC's statutory powers.

2. Seeking internal legal advice. The Enforcement Division seeks legal advice from the SFC's Legal Services Division on whether there is sufficient evidence for a criminal prosecution. The advice that is given will be based upon The Prosecution Code published by the Department of Justice. Before a final advice is given there may be interim advices recommending further steps be taken by the Enforcement Division with a view to improving the state of the evidence. Consequently, some time may elapse before a final advice is given. In this period the Legal Services Division will also consider whether there is a need for any urgent interim civil orders.
3. Seeking external legal advice. This is an optional course that may be in addition to, or instead of, internal legal advice provided by the Legal Services Division. As when internal legal advice is given, the advice of the external counsel may involve the Enforcement Division conducting further investigations to address any matters raised in the legal advice.
4. Preparing the SFC file for submission to the Director of Public Prosecutions (DPP) of the Department of Justice (DOJ) for advice on whether a criminal prosecution is warranted. One of many requirements of the DOJ is that all witness statements are signed and this may account for some delay in the preparation of the file. We presume that this, and the other matters required by the DOJ, are not matters that the Legal Services Division requires

before providing its advice.

5. As with other legal advices, the DOJ may render interim legal advices in which further investigative work is requested. This may lead to delay in the final legal advice being provided to the SFC. The DOJ's legal advice will be confined to assessing the sufficiency of evidence for a criminal prosecution and will not address the question of whether there is sufficient evidence to commence proceedings before the MMT.
6. If the DOJ advises that there is insufficient evidence for a criminal prosecution, but the SFC has legal advice, either from its own internal counsel or from external counsel, that there is sufficient evidence to institute MMT proceedings, then the SFC will seek its Board's approval to commence proceedings before the Tribunal.
7. Simultaneously with the process of seeking its Board's approval, or as soon as that approval has been obtained, the SFC's Legal Services Division will begin preparation of the Notice and Synopsis that are the initiating documents for the MMT proceedings. These two documents may be drafted by external counsel.
8. After the SFC Board has given its approval to the institution of MMT proceedings and after the Notice has been drafted, the SFC will seek the Secretary for Justice's consent to proceed. The consent appears not to have been delegated but is signed

personally by the Secretary for Justice. It has not been made clear to us how the SFC's request for consent is processed within the DOJ.

The seeking of external advice may or may not take place depending upon the need as assessed by the SFC but generally there will be at least one occasion that the SFC seeks external legal advice before filing its Notice with the Tribunal.

167. In the present case there was the following timeline:

1. 1 August – 30 September 2014: Commission of the Market Misconduct
2. 4 November 2014: Institution of the SFC's investigation
3. 4 November 2014 – November 2017: The SFC conducted its investigation and interviewed the Specified Person, his mother and his wife, and provided instructions to a market expert.
4. 21 December 2017: The Enforcement Division of the SFC referred its investigation to the Legal Services Division of the SFC for Legal advice.
5. 28 September 2018: The Legal Services Division rendered its first legal advice identifying a number of matters for further investigation.
6. October – December 2018: The Enforcement Division carried out the further investigation recommended by the Legal Services Division.

7. 14 January 2019: The Enforcement Division referred the case to the Legal Services Division for further legal advice.
8. 28 March 2019: The Legal Services Division provided a further advice recommending additional information be provided to the market expert so that he could re-evaluate his opinion and update his report.
9. April – July 2019: Awaiting the updated report from the market expert.
10. 8 August 2019: The market expert's report is referred to the Legal Services Division for further legal advice.
12. 30 September 2019: The Legal Services Division issued its final legal advice.
13. 30 September 2019 – 29 July 2020: The Enforcement Division obtained signed witness statements and section 22A Evidence Ordinance certificates verifying computer produced documents.
14. 24 June 2020: The Enforcement Division referred the file to the DPP for legal advice on a criminal prosecution.
15. 11 November 2020: The SFC received the DPP's advice regarding a criminal prosecution.
16. 16 April 2021: The SFC briefed external counsel.
17. 7 July 2021: Final advice from external counsel was received.
18. 14 July 2021: The Enforcement Division seeks SFC Board

approval to commence MMT proceedings.

19. July 2021 – May 2022: The Enforcement Division obtains additional evidence pursuant to external counsel's advice.
20. 17 June 2022: The SFC seeks consent from the Secretary for Justice to institute proceedings before the Market Misconduct Tribunal.
21. 8 July 2022: The SFC received the Secretary for Justice's consent to institute MMT proceedings.
22. 5 August 2022: The SFC filed a Notice with the Market Misconduct Tribunal.

168. We should emphasise that we are not trying to find fault with anyone or to blame anyone for the delay in this case. We are setting out the process in an effort to enable us to better understand it and hopefully for others to dispassionately and objectively consider it with a view to identifying areas where delay might be reduced.

169. However, in the course of so doing it is necessary to bear in mind, in respect of the present case, an important part of the context; namely, that from January 2020 to May 2022 Hong Kong, along with the rest of the world, suffered from the Covid-19 epidemic. In response to the epidemic the SFC implemented special working arrangements which had as their side effect a slowing down of the normal pace at which employees could perform their duties. In a nutshell, it

took longer to get things done. This is quite understandable and was certainly not unique to the SFC.

170. We well understand that white collar crime investigations are time consuming and resource intensive. There is nothing unusual in them taking years to complete. Nevertheless, what does stand out is that a period of over 4 ½ years elapsed from when the Enforcement Division first sent its file for legal advice on 21 December 2017 to when it filed a Notice with the MMT on 5 August 2022. Even allowing for the difficulties posed by the Covid-19 working arrangements, this period seems far too long. This is the period, we would suggest, that warrants closer scrutiny.

171. In conducting a closer scrutiny of this period, focus should be placed on the number of occasions on which legal advice was needed and the time taken to complete the provision of the legal advices. On the face of it, the number of occasions, four in total, and the time taken to provide it, some 15 ½ months, seem both to be more than should have been needed. We qualify ourselves by saying “on the face of it” because, for reasons of legal professional privilege, we cannot know what legal advice was requested or provided. Nevertheless, we can’t help but wonder whether this is an area where some of the delay may have crept in as the seeking and providing of legal advice gradually lengthened the period between the end of the investigation and the seeking of approval from the Department of Justice, and between the obtaining of that approval and the filing of the Notice with the Market Misconduct Tribunal.

172. We also note that at item 13 of the timeline it took the Enforcement Division 10 months to prepare a file to be sent to the DPP for legal advice. Why this file was not already in a state to be sent to the DPP is not clear. Also, it is apparent that there was a delay of 11 months from when Board approval for MMT proceedings was obtained to when the consent of the Secretary for Justice was sought. Whether this is fully accounted for by external counsel's need for additional evidence is not clear.

173. As we have sought to emphasise, what is of greatest concern to us is the impact that delay may have on the MMT's ability to properly discharge its statutory function, namely, to conduct an enquiry and make findings in accordance with the provisions of the SFO. In order for the Tribunal to conduct an enquiry it is given a range of powers. However, those powers may be of no value if records no longer exist and witnesses and Specified Persons have disbursed beyond Hong Kong. Of course, if the Specified Person has left Hong Kong and no longer has any assets here, then any financial orders of the Tribunal will be unenforceable.

174. We can do no more than lay out the situation as it has been described to us and to invite the SFC and the Department of Justice to consider in partnership what could be done to reduce the delay in bringing matters to the Tribunal. We hope our comments on this matter may be a motivation for change.



Mr Ian McWalters, GBS

(Chairman)



Mr CHAN Anthony Jen-haw

(Member)



Mr TAN Yat Quan

(Member)

Dated 28 June 2024

Annexure A

**MARKET MISCONDUCT TRIBUNAL
IN THE MATTER OF THE LISTED SECURITIES OF
CHINA VANGUARD GROUP LIMITED, NOW KNOWN AS
SINOPHARM TECH HOLDINGS LIMITED (STOCK CODE: 8156) AND
YUNBO DIGITAL SYNERGY GROUP LIMITED, NOW KNOWN AS
QUANTUM THINKING LIMITED (STOCK CODE: 8050)**

**NOTICE TO THE MARKET MISCONDUCT TRIBUNAL
PURSUANT TO SECTION 252(2) OF AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE (CAP. 571)**

Whereas it appears to the Securities and Futures Commission (the “**Commission**”) that market misconduct in the nature of false trading within the meaning of section 274 of the Securities and Futures Ordinance (Cap. 571) (the “**SFO**”) has or may have taken place in relation to the shares in China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (stock code 8156) (“**CVG**”) and in relation to the shares in Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (stock code 8050) (“**YBD**”), both listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (“**SEHK**”), the Commission hereby institutes proceedings before the Market Misconduct Tribunal for it to determine:

- (1) Whether any market misconduct within the meaning of section 274 of the SFO has taken place;
- (2) The identity of any person who has engaged in the market misconduct found to have been perpetrated; and
- (3) The amounts of any profit gained and/or loss avoided, if any, as a result of the market misconduct found to have been perpetrated.

Person Suspected to Have Engaged in Market Misconduct

Jonathan Dominic Wai Chung Iu (“**Mr Iu**”)

Statement for Institution of Proceedings

1. Mr Iu was at all material times a director, a responsible officer, the chief investment officer, and the holder of 80% of the shares in Tarascon Capital Management (Hong Kong) Limited (“**Tarascon**”), a company incorporated in Hong Kong and engaged in the business of providing investment and portfolio management services.
2. Tarascon at the material times managed a hedge fund named Tarascon Asia Absolute Fund (Cayman) Limited (“**Fund**”), a company incorporated in the Cayman Islands as an exempted open-ended investment company. Mr Iu was responsible for managing and making investment decisions for the Fund. He was also the only person authorised by Tarascon to place orders to trade securities for the Fund.
3. The Fund at the material times had securities accounts at (amongst others) Guosen Securities (HK) Brokerage Company Limited, UBS Securities Asia Limited, and Morgan Stanley Hong Kong Securities Limited (the “**Fund’s Accounts**”).
4. Mr Iu’s mother, Victoria Iu (“**Ms Iu**”), at the material times had a securities account at Hang Seng Securities Limited (“**Ms Iu’s Account**”). Mr Iu had access to and was authorised by Ms Iu to operate Ms Iu’s Account.
5. Both the shares of CVG and YBD were at the material times listed on the Growth Enterprise Market of the SEHK, which was and is a relevant recognised market within the meaning of section 274 of the SFO.
6. Between 1 August 2014 and 30 September 2014, Mr Iu made or proposed to make offers to purchase and to sell shares in CVG and YBD for the Fund’s Accounts and for Ms Iu’s Account.

7. Pursuant to the offers:
 - 7.1. 23,465,000 CVG shares were purchased for the Fund's Accounts at an average price of HK\$3.657 per share. 35,210,000 CVG shares were sold at an average price of HK\$3.412 per share. The Fund's Accounts made a loss (based on the average purchase and sale prices, same for all figures of gains and losses below) of approximately HK\$2.68 million.
 - 7.2. 16,740,000 CVG shares were purchased for Ms Iu's Account at an average price of HK\$3.409 per share. 17,895,000 CVG shares were sold at an average price of HK\$3.702 per share. Ms Iu's Account made a gain of approximately HK\$5.54 million.
 - 7.3. 1,600,000 YBD shares were purchased for the Fund's Accounts at an average price of HK\$6.932 per share. 756,000 YBD shares were sold at an average price of HK\$6.68 per share. The Fund's Accounts made a loss of approximately HK\$2.67 million.
 - 7.4. 556,000 YBD shares were purchased for Ms Iu's Account at an average price of HK\$6.901 per share. 556,000 YBD shares were sold at an average price of HK\$7.038 per share. Ms Iu's Account made a gain of approximately HK\$76,040.
8. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against opposite offers also made by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be):

- 8.1. 15,805,000 CVG shares were purchased by the Fund's Accounts from Ms Iu's Account. 14,420,000 CVG shares were sold from the Fund's Accounts to Ms Iu's Account.
 - 8.2. 440,000 YBD shares were purchased by the Fund's Accounts from Ms Iu's Account. 100,000 YBD shares were sold from the Fund's Accounts to Ms Iu's Account.
9. By the offers:
- 9.1. Mr Iu offered to purchase and sell shares in CVG at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.
 - 9.2. Mr Iu offered to purchase and sell shares in YBD at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.
10. Moreover, amongst the offers:
- 10.1. Mr Iu often made offers to sell shares in CVG and YBD for Ms Iu's Account at minimum prices higher than the nominal prices of such shares in the market, and made offers to purchase shares at maximum prices lower than the nominal prices of such shares in the market.

- 10.2. In anticipation of or following such offers to sell shares for Ms Iu's Account, Mr Iu made offers to purchase shares for the Fund's Accounts which would be executed against other offers in the market with priority over the offers to sell shares for Ms Iu's Account. The nominal prices of the shares would be increased.
 - 10.3. In anticipation of or following such offers to purchase shares for Ms Iu's Account, Mr Iu made offers to sell shares for the Fund's Accounts which would be executed against other offers in the market with priority over the offers to purchase shares for Ms Iu's Account. The nominal prices of the shares would be decreased.
 - 10.4. As a result, the offers made or to be made to sell or purchase CVG or YBD shares for Ms Iu's Account could be and were executed at higher prices for selling and lower prices for purchasing.
11. By the offers and by reason of the matters aforesaid:
- 11.1. Mr Iu offered to and/or did purchase and sell shares in CVG for the Fund's Accounts and Ms Iu's Account with the intention that, or being reckless as to whether, the offers and/or purchases and sales had or were likely to have, the effect of:
 - (a) Creating a false or misleading appearance of active trading in CVG shares, within the meaning of section 274(1)(a) of the SFO;
 - (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, CVG shares, within the meaning of section 274(1)(b) of the SFO; and/or

- (c) Creating an artificial price for dealings in CVG shares, within the meaning of section 274(3) of the SFO.

11.2. Mr Iu offered to and/or did purchase and sell shares in YBD for the Fund's Accounts and Ms Iu's Account with the intention that, or being reckless as to whether, the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in YBD shares, within the meaning of section 274(1)(a) of the SFO;
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, YBD shares, within the meaning of section 274(1)(b) of the SFO; and/or
- (c) Creating an artificial price for dealings in YBD shares, within the meaning of section 274(3) of the SFO.

12. In the premises, Mr Iu engaged in market misconduct, namely false trading within the meaning of section 274 of the SFO.

Dated this 5th day of August 2022.

Securities and Futures Commission

Annexure B

274. False trading

- (1) False trading takes place when, in Hong Kong or elsewhere, a person does anything or causes anything to be done, with the intention that, or being reckless as to whether, it has, or is likely to have, the effect of creating a false or misleading appearance—
 - (a) of active trading in securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services; or
 - (b) with respect to the market for, or the price for dealings in, securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services.
- (2) False trading takes place when, in Hong Kong, a person does anything or causes anything to be done, with the intention that, or being reckless as to whether, it has, or is likely to have, the effect of creating a false or misleading appearance—
 - (a) of active trading in securities or futures contracts traded on a relevant overseas market; or
 - (b) with respect to the market for, or the price for dealings in, securities or futures contracts traded on a relevant overseas market.
- (3) False trading takes place when, in Hong Kong or elsewhere, a person takes part in, is concerned in, or carries out, directly or indirectly, one or more transactions (whether or not any of them is a dealing in securities or futures contracts), with the intention that, or being reckless as to whether, it or they has or have, or is or are likely to have, the effect of creating an artificial price, or maintaining at a level that is artificial (whether or not it was previously artificial) a price, for dealings in securities or futures contracts traded on a relevant recognized market or by means of authorized automated trading services.
- (4) False trading takes place when, in Hong Kong, a person takes part in, is concerned in, or carries out, directly or indirectly, one or more transactions (whether or not any of them is a dealing in securities or futures contracts), with the intention that, or being reckless as to whether, it or they has or have, or is or are likely to have, the effect of creating an artificial price, or maintaining at a level that is artificial (whether or not it was previously artificial) a price, for dealings in securities or futures contracts traded on a relevant overseas market.
- (5) Without limiting the general nature of the conduct which constitutes false trading under subsection (1) or (2), where a person—
 - (a) enters into or carries out, directly or indirectly, any transaction of sale or purchase, or any transaction which purports to be a transaction of sale or purchase, of securities that does not involve a change in the beneficial ownership of them;
 - (b) offers to sell securities at a price that is substantially the same as the price at which he has made or proposes to make, or knows that an associate of his has made or proposes to make, an offer to purchase the same or substantially the same number of them; or
 - (c) offers to purchase securities at a price that is substantially the same as the price at which he has made or proposes to make, or knows that an associate of his has made or proposes to make, an offer to sell the same or substantially the same number of them,

then, unless the transaction in question is an off-market transaction, the person shall, for the purposes of subsections (1) and (2), be regarded as doing something or causing something to be done, with the intention that, or being reckless as to whether, it has, or is likely to have, the effect of creating a false or misleading appearance—

- (i) where the securities are traded on a relevant recognized market or by means of authorized automated trading services, of active trading in securities so traded or with respect to the market for, or the price for dealings in, securities so traded; or

- (ii) where the securities are traded on a relevant overseas market, of active trading in securities so traded or with respect to the market for, or the price for dealings in, securities so traded.
- (6) A person shall not be regarded as having engaged in market misconduct by reason of false trading taking place through the commission of an act referred to in subsection (5)(a), (b) or (c) if he establishes that the purpose for which he committed the act was not, or, where there was more than one purpose, the purposes for which he committed the act did not include, the purpose of creating a false or misleading appearance of active trading in securities, or with respect to the market for, or the price for dealings in, securities, referred to in subsection (1) or (2) (as the case may be).
- (7) In subsection (5), **off-market transaction** (場外交易) means a transaction which—
 - (a) in the case of securities traded on a relevant recognized market, is not required to be recorded on the relevant recognized market, or to be notified, under the rules of the person by whom the relevant recognized market is operated, to such person;
 - (b) in the case of securities traded by means of authorized automated trading services, is not required to be recorded by means of authorized automated trading services, or to be notified, under the rules of the person by whom the authorized automated trading services are operated, to such person; or
 - (c) in the case of securities traded on a relevant overseas market, is not required to be recorded on the relevant overseas market, or to be notified, under the rules of the person by whom the relevant overseas market is operated, to such person.
- (8) In this section—
 - (a) a reference to a transaction of sale or purchase, in relation to securities, includes an offer to sell or purchase securities and an invitation (however expressed) that expressly or impliedly invites a person to offer to sell or purchase securities; and
 - (b) a reference to entering into or carrying out a transaction of sale or purchase shall, in the case of an offer or an invitation referred to in paragraph (a), be construed as a reference to making the offer or the invitation (as the case may be).

Annexure C

257. Orders, etc. of Tribunal

- (1) Subject to subsection (3), the Tribunal may at the conclusion of any proceedings instituted under section 252 make one or more of the following orders in respect of a person identified as having engaged in market misconduct pursuant to section 252(3)(b)—
- (a) an order that the person shall not, without the leave of the Court of First Instance, be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation or in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation for the period (not exceeding 5 years) specified in the order;
 - (b) an order that the person shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leveraged foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for the period (not exceeding 5 years) specified in the order;
 - (c) an order that the person shall not again perpetrate any conduct which constitutes such market misconduct as is specified in the order (whether the same as the market misconduct in question or not);
 - (d) an order that the person pay to the Government an amount not exceeding the amount of any profit gained or loss avoided by the person as a result of the market misconduct in question;
 - (e) without prejudice to any power of the Tribunal under section 260, an order that the person pay to the Government the sum the Tribunal considers appropriate for the costs and expenses reasonably incurred by the Government in relation or incidental to the proceedings; (*Amended 9 of 2012 s. 22*)
 - (f) without prejudice to any power of the Tribunal under section 260, an order that the person pay to the Commission the sum the Tribunal considers appropriate for the costs and expenses reasonably incurred by the Commission, whether in relation or incidental to—
 - (i) the proceedings;
 - (ii) any investigation of the person's conduct or affairs carried out before the proceedings were instituted; or
 - (iii) any investigation of the person's conduct or affairs carried out for the purposes of the proceedings; (*Replaced 9 of 2012 s. 22*)
 - (fa) where the proceedings were instituted as a result of an investigation under the Accounting and Financial Reporting Council Ordinance (Cap. 588), an order that the person pay to the Accounting and Financial Reporting Council continued under section 6 of that Ordinance the sum the Tribunal considers appropriate for the costs and expenses in relation or incidental to the investigation reasonably incurred by the Council; (*Added 18 of 2006 s. 85. Amended L.N. 66 of 2022*)
 - (g) an order that any body which may take disciplinary action against the person as one of its members or regulatees be recommended to take disciplinary action against the person. (*Amended L.N. 66 of 2022*)
- (1A) In subsection (1)(fa), the reference to an investigation under the Accounting and Financial Reporting Council Ordinance (Cap. 588) includes an investigation under the Financial Reporting Council Ordinance (Cap. 588) as in force from time to time before the day* on which section 3 of the Financial Reporting Council (Amendment) Ordinance 2021 (41 of 2021) comes into operation. (*Added L.N. 66 of 2022*)

- (2) When making any order in respect of a person under subsection (1), the Tribunal may take into account any conduct by the person which—
 - (a) previously resulted in the person being convicted of an offence in Hong Kong;
 - (b) previously resulted in the person being identified by the Tribunal—
 - (i) under section 252(3)(b) as having engaged in any market misconduct; or
 - (ii) under section 307J(1)(b) as being in breach of a disclosure requirement; or
(Replaced 9 of 2012 s. 7)
 - (c) at any time before the commencement of this Part resulted in the person being identified as an insider dealer in a determination under section 16(3), or in a written report prepared and issued under section 22(1), of the repealed Securities (Insider Dealing) Ordinance.
- (3) The Tribunal shall not make an order in respect of a person under subsection (1) without first giving the person a reasonable opportunity of being heard.
- (4) Where the Tribunal makes an order under subsection (1)(a), the Tribunal may specify a corporation by name or by reference to a relationship with any other corporation.
- (5) The Tribunal may, in relation to any person, specify any market misconduct in an order under subsection (1)(c), whether or not there is, at the time when the order is made, likelihood that the person would perpetrate any conduct which constitutes the market misconduct.
- (6) Where the Tribunal makes an order under subsection (1)(e) or (f) requiring the payment of costs as costs reasonably incurred in relation or incidental to any proceedings instituted under section 252, subject to any rules made by the Chief Justice under section 269, Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the taxation of the costs.
- (7) The Tribunal shall by notice in writing notify a person of an order made in respect of him under subsection (1).
- (8) An order made in respect of a person under subsection (1) takes effect at the time when it is notified to the person or at the time specified in the notice, whichever is the later.
- (9) Where the Tribunal makes an order under subsection (1)(b), the Commission may notify any licensed person or registered institution of the order in such manner as it considers appropriate.
- (10) A person commits an offence if he fails to comply with an order made under subsection (1)(a), (b) or (c) and is liable—
 - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(Amended E.R. 2 of 2012)

Editorial Note:

* Operation date: 1 October 2022.

Annexure D

MARKET MISCONDUCT TRIBUNAL

In the matter of the listed securities of: (1) China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (Stock Code: 8156); and (2) Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (Stock Code: 8050).

STATEMENT OF AGREED AND ADMITTED FACTS

The facts and matters set out in this Statement of Agreed and Admitted Facts (this “**Statement**”) are agreed and accepted by Securities and Futures Commission (the “**SFC**”) and the Specified Person Jonathan Dominic Wai Ching Iu (“**Mr Iu**”).

The SFC and Mr Iu agree that the Market Misconduct Tribunal (the “**Tribunal**”) may and invite it to make a determination under section 252(3) of the Securities and Futures Ordinance (Cap. 571) (the “**SFO**”) on the basis of the facts and matters set out herein.

Unless otherwise stated, references in square brackets are to the Exhibit Bundles (“**EB**”), Witness Evidence Bundles (“**WB**”), and Expert Evidence Bundles (“**EE**”) filed with the Tribunal in the format [EB or WB or EE/ Bundle/ Tab/ Page].

A. Background

A1. Mr Iu, Tarascon, and the Fund

1. Mr Iu was at the material times a director, a Responsible Officer, the chief investment officer, and the holder of 80% of the issued shares in Tarascon Capital Management (Hong Kong) Limited (“**Tarascon**”).

2. Tarascon was and is a company incorporated in Hong Kong engaged in the business of providing investment and portfolio management services. It has been licensed by the SFC since 16 February 2007 for carrying on a business in Type 9 regulated activity of asset management under the SFO.
3. Tarascon at the material times managed a hedge fund named Tarascon Asia Absolute Fund (Cayman) Limited (the “**Fund**”) as an exempted open-ended investment company incorporated in the Cayman Islands. Mr Iu was one of five unitholders of the Fund. He was also responsible for managing and making investment decisions for the Fund and the only person authorised by Tarascon to place orders to trade securities for the Fund.
4. The Fund was an associate of Mr Iu within the meaning of section 274(5) of the SFO.
5. The Fund had securities accounts at, amongst others, the following firms:
 - 5.1. Guosen Securities (HK) Brokerage Company Limited: account no. 8800900170 (the “**Guosen Account**”);
 - 5.2. UBS Securities Asia Limited: client identification no. C41927 (the “**UBS Account**”); and
 - 5.3. Morgan Stanley Hong Kong Securities Limited: account no. 4F-81200 (the “**Morgan Stanley Account**”)(collectively, the “**Fund’s Accounts**”).
6. Mr Iu was at the materials times the only person authorized by Tarascon to operate and to trade securities through the Fund’s Accounts.

A2. Ms Iu

7. Mr Iu's mother Victoria Iu ("**Ms Iu**") was a retiree and formerly a manager in the clearing and settlement department of The Hongkong and Shanghai Banking Corporation Limited.
8. Ms Iu was an associate of Mr Iu within the meaning of section 274(5) of the SFO.
9. Ms Iu had a securities account at Hang Seng Securities Limited: account no. 356-256628-888 ("**Ms Iu's Account**").
10. Mr Iu was at the material times authorised by Ms Iu to operate and to trade securities through Ms Iu's Account.

B. Mr Iu's Operation of the Accounts

11. Between 1 August 2014 and 30 September 2014 (the "**Relevant Period**"), Mr Iu operated the Fund's Accounts and Ms Iu's Account to trade the shares in:
 - 11.1 China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (stock code: 8156) ("**CVG**"); and
 - 11.2 Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (stock code: 8050) ("**YBD**").
12. Both the shares of CVG and YBD were at the material times listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited ("**SEHK**"), which was a relevant recognised market within the meaning of section 274 of the SFO.

C. Trading Rules and Nature of Orders

13. An offer in the market of the SEHK is made initially by placing an order to purchase or sell shares into the trading system of the SEHK.
14. Under the rules of the SEHK, orders to purchase and sell shares are matched with each other in accordance with time-price priority:
 - 14.1. An order to purchase shares is first matched with the available orders to sell at the lowest prices.
 - 14.2. An order to sell shares is first matched with the available orders to purchase at the highest prices.
 - 14.3. As between orders at the same prices, the order placed first in time is matched first.
15. The trading system of the SEHK allows for, amongst others, the placing of different types of orders, including:
 - 15.1. A “limit order”, which is an order to purchase or sell at and only at the price specified in the order.
 - 15.2. An “enhanced limit order”, which is an order to purchase or sell up to the price specified in the order. The order may be matched with up to 10 price queues (at the specified price and/or better price(s)) at the same time. If an enhanced limit order is not matched completely, any outstanding order will be traded as a limit order, i.e., an order to purchase or sell at the price specified only.
 - 15.3. A “special limit order” which is an order to purchase or sell up to the price specified in the order. The order may be matched with up to 10 price queues (at the specified price and/or better price(s)) at the

same time. If a special limit order is not matched completely, any outstanding order will be cancelled.

15.4. These types of orders may be accompanied with an “all or nothing” qualifier. If so qualified, the order can only be matched immediately in full for the quantity of shares specified in the order and which will not otherwise enter into the order book of the trading system.

15.5. A limit order or an enhanced limit order without an “all or nothing” qualifier may be executed in part such that the unexecuted remaining part becomes an order remaining and showing on the order book of the trading system. A special limit order without an “all or nothing” qualifier may be executed in part and the unexecuted remaining part will be cancelled.

D. Mr Iu’s Trading in CVG Shares

D1. For the Fund’s Accounts

16. During the Relevant Period, Mr Iu traded CVG shares through the Fund’s Accounts and Ms Iu’s Account.¹

17. **Enclosure A** hereto is a CD-ROM containing a table titled “Extracts of MSS stock activities reports of shares in CVG showing the orders of the trades of V Iu and Tarascon during the period from 1 August 2014 to 30 September 2014”. The table sets out historical trading data in respect of CVG shares

¹ The lists of trades, monthly statements, order records, and order instructions (given via telephone or Bloomberg instant messaging) for the Guosen Account, the UBS Account, the Morgan Stanley Account, and Ms Iu’s Account which the SFC has obtained from the respective firm are exhibited to the statements of the personnel of the respective firm at [WB/2/12/734-761]; [WB/2/11/679-731]; [WB/2/11/762-1026]; and [WB/2/8/593-630].

relevant to the orders and trades by Mr Iu through Ms Iu's Account and the Fund's Accounts.² Mr Iu agrees to and accepts the accuracy of the table.

18. **Annex 1** hereto is a narrative description entitled "Mr Iu's Trading of CVG Shares" which describes those orders and trades by Mr Iu in CVG shares.³ Mr Iu agrees to and accepts the accuracy of the description.
19. As of 31 July 2014, the Fund's Accounts had 76,450,000 CVG shares.
20. During the Relevant Period, pursuant to Mr Iu's instructions, 23,465,000 CVG shares were purchased at an average price of HK\$3.657 per share for the Fund's Accounts and 35,210,000 CVG shares were sold at an average price of HK\$3.412 per share for the Fund's Accounts over 33 trading days.
21. These transactions constituted 42.71% of the total trading volume of CVG shares in the market on those trading days:

Date	Purchase (number of shares)	Average Price (HK\$)	Sale (number of shares)	Average Price (HK\$)	Market Trading Volume	% of Market Trading Volume
01/08/2014	1,085,000	3.686	485,000	3.451	4,305,000	36.47%
04/08/2014	660,000	3.583	1,185,000	3.434	2,425,000	76.08%
05/08/2014			150,000	3.402	670,000	22.39%
06/08/2014	570,000	3.500	270,000	3.381	1,735,000	48.41%
07/08/2014			200,000	3.344	1,140,000	17.54%
08/08/2014			200,000	3.393	1,189,000	16.82%
11/08/2014			500,000	3.379	930,000	53.76%
12/08/2014			500,000	3.345	1,030,000	48.54%
13/08/2014	1,150,000	3.282	3,550,000	3.135	6,035,000	77.88%
14/08/2014	1,085,000	3.408	1,085,000	3.211	2,890,000	75.09%
15/08/2014	2,500,000	3.664	1,425,000	3.290	18,711,000	20.98%

² The table is also in the CD-ROM at [EE/7/1V].

³ The same also appears at Annex 1 to the Synopsis dated 5 August 2022.

18/08/2014			1,965,000	3.731	13,005,000	15.11%
19/08/2014	4,430,000	4.000	4,265,000	3.836	17,516,000	49.64%
20/08/2014	545,000	3.839	1,510,000	3.663	4,475,000	45.92%
21/08/2014	440,000	3.735	1,575,000	3.577	4,865,000	41.42%
25/08/2014	755,000	3.806			3,086,000	24.47%
26/08/2014			195,000	3.760	611,000	31.91%
01/09/2014			430,000	3.617	1,120,000	38.39%
03/09/2014	570,000	3.661			850,000	67.06%
05/09/2014	620,000	3.538			1,825,000	33.97%
08/09/2014			200,000	3.428	1,315,000	15.21%
10/09/2014	1,545,000	3.504	1,450,000	3.208	8,410,000	35.61%
11/09/2014			3,210,000	3.311	7,181,000	44.70%
15/09/2014	1,650,000	3.592			4,485,000	36.79%
16/09/2014			3,780,000	3.426	4,735,003	79.83%
17/09/2014			200,000	3.571	1,625,000	12.31%
18/09/2014	35,000	3.617			1,355,000	2.58%
19/09/2014	2,550,000	3.612			3,225,000	79.07%
23/09/2014	675,000	3.633			2,350,000	28.72%
24/09/2014			800,000	3.470	1,570,000	50.96%
25/09/2014			3,000,000	3.292	4,420,000	67.87%
26/09/2014	900,000	3.409	1,620,000	3.021	3,915,000	64.37%
29/09/2014	1,700,000	3.541	1,460,000	3.175	4,395,000	71.90%
Total	23,465,000	3.657	35,210,000	3.412	137,394,003	42.71%

22. The transactions resulted in a loss of approximately HK\$2.68 million to the Fund's Accounts (based on the average purchase and sale prices, same for all figures of gains and losses below).

D2. For Ms Iu's Account

23. As of 31 July 2014, Ms Iu's Account had 2,190,000 CVG shares.
24. During the Relevant Period, pursuant to Mr Iu's instructions, 16,740,000 CVG shares were purchased at an average price of HK\$3.409 per share for

Ms Iu's Account and 17,895,000 CVG shares were sold at an average price of HK\$3.702 per share for Ms Iu's Account over 23 trading days.

25. These transactions constituted 28.29% of the total trading volume of CVG shares in the market on those trading days:

Date	Purchase (number of shares)	Average Price (HK\$)	Sale (number of shares)	Average Price (HK\$)	Market Trading Volume	% of Market Trading Volume
01/08/2014			1,105,000	3.678	4,305,000	25.67%
04/08/2014			585,000	3.590	2,425,000	24.12%
06/08/2014			500,000	3.500	1,735,000	28.82%
13/08/2014	1,780,000	3.061	290,000	3.280	6,035,000	34.30%
14/08/2014	1,040,000	3.212	1,150,000	3.391	2,890,000	75.78%
15/08/2014	1,100,000	3.283			18,711,000	5.88%
18/08/2014	660,000	3.719	705,000	3.859	13,005,000	10.50%
19/08/2014	3,070,000	3.839	4,305,000	4.007	17,516,000	42.10%
20/08/2014	830,000	3.658	725,000	3.805	4,475,000	34.75%
21/08/2014	1,465,000	3.563			4,865,000	30.11%
25/08/2014	5,000	3.780	775,000	3.793	3,086,000	25.28%
01/09/2014	200,000	3.610			1,120,000	17.86%
03/09/2014			450,000	3.671	850,000	52.94%
05/09/2014			500,000	3.540	1,825,000	27.40%
10/09/2014	605,000	3.193	1,250,000	3.499	8,410,000	22.06%
11/09/2014	1,445,000	3.292			7,181,000	20.12%
15/09/2014			1,595,000	3.580	4,485,000	35.56%
16/09/2014	2,295,000	3.392			4,735,000	48.47%
19/09/2014			2,250,000	3.617	3,225,000	69.77%
23/09/2014			500,000	3.640	2,350,000	21.28%
26/09/2014	1,200,000	3.045			3,915,000	30.65%
29/09/2014	1,045,000	3.166	1,200,000	3.600	4,395,000	51.08%
30/09/2014			10,000	3.140	870,000	1.15%
Total	16,740,000	3.409	17,895,000	3.702	122,409,000	28.29%

26. The transactions resulted in a gain of approximately HK\$5.54 million to Ms Iu's Account.

D3. Matched Offers and Executions

27. On 22 of the trading days mentioned above, Mr Iu operated both the Fund's Accounts and Ms Iu's Account. He contemporaneously placed orders to purchase or to sell CVG shares for the Fund's Accounts on the one hand, and orders to sell or to purchase CVG shares for Ms Iu's Account on the other.
28. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against offers also placed by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be). The opposite orders resulted in 128 executed transactions between the Fund's Accounts and Ms Iu's Account.
29. As a result, the Fund's Accounts purchased 15,805,000 CVG shares from Ms Iu's Account and sold 14,420,000 CVG shares to Ms Iu's Account.
30. Details of the orders and transactions are set out in **Annex 1**. In summary:
- 30.1. On 15 occasions:
- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts. The quantities of the orders to sell and purchase corresponded with each other.
 - (ii) On 8 out of the 15 occasions, the said orders to sell and orders to purchase were executed in full against each other.

30.2. On 7 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to sell shares corresponded with the quantities in the remaining unexecuted orders to purchase; or
- (ii) He placed orders to purchase shares for the Fund's Accounts or Ms Iu's Account at maximum prices which corresponded with the minimum prices in his orders to sell shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to purchase shares corresponded with the quantities in the remaining unexecuted orders to sell.

30.3. On 84 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with the maximum prices of his orders to purchase shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to sell shares exceeded the quantities in the orders to purchase; or
- (ii) He placed orders to purchase shares for the Fund's Accounts or Ms Iu's Account at maximum prices which corresponded with the minimum prices of his orders to sell shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to purchase shares exceeded the quantities in the orders to sell.

30.4. On 7 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices below the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts (such that they could be executed against each other). The quantities in the orders to sell corresponded with the quantities in the remaining unexecuted orders to purchase; or
- (ii) He placed orders to purchase shares for the Fund's Accounts or Ms Iu's Account at maximum prices above the minimum prices in his orders to sell shares for Ms Iu's Account or the Fund's Accounts (such that they could be executed against each other). The quantities in the orders to purchase corresponded with the quantities in the remaining unexecuted orders to sell.

30.5. On 15 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with or were below the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts (such that they could be executed against each other). The quantities in the orders to sell were less than the quantities in the remaining unexecuted orders to purchase; or
- (ii) He placed orders to purchase shares for the Fund's Accounts or Ms Iu's Account at maximum prices which corresponded with or exceeded the minimum prices in his orders to sell shares for Ms Iu's Account or the Fund's Accounts (such that

they could be executed against each other). The quantities in the orders to purchase were less than the quantities in the remaining unexecuted orders to sell.

E. Mr Iu's Trading in YBD Shares

E1. For the Fund's Accounts

31. During the Relevant Period, Mr Iu traded YBD shares through the Fund's Accounts and Ms Iu's Account.⁴
32. **Enclosure B** hereto is a CD-ROM containing a table titled "Extracts of MSS stock activities reports of shares in YBD showing the orders and the trades of V Iu and Tarascon during the period from 1 August 2014 to 30 September 2014". The table sets out historical data in respect of YBD shares relevant to the orders and trades by Mr Iu through Ms Iu's Account and the Fund's Accounts.⁵ Mr Iu agrees to and accepts the accuracy of the table.
33. **Annex 2** hereto is a narrative description entitled "Mr Iu's Trading of YBD Shares" which describes those orders and trades by Mr Iu in YBD shares.⁶ Mr Iu agrees to and accepts the accuracy of the description.
34. As of 31 July 2014, the Fund's Accounts did not have any YBD shares.
35. During the Relevant Period, pursuant to Mr Iu's instructions, 1,600,000 YBD shares were purchased at an average price of HK\$6.932 per share for

⁴ The lists of trades, monthly statements, order records, and order instructions (given via telephone or Bloomberg instant messaging) for the UBS Account, the Morgan Stanley Account, and Ms Iu's Account which the SFC has obtained from the respective firm are exhibited to the statements of the personnel of the respective firm at [WB/2/11/679-731]; [WB/2/11/762-1026]; and [WB/2/8/593-630].

⁵ The table is also in the CD-ROM at [EE/7/1W].

⁶ The same also appears at Annex 2 to the Synopsis dated 5 August 2022.

the Fund's Accounts and 756,000 YBD shares were sold at an average price of HK\$6.680 per share for the Fund's Accounts over 5 trading days.

36. These transactions constituted 20.20% of the total trading volume of YBD shares in the market on those trading days:

Date	Purchase (number of shares)	Average Price (HK\$)	Sale (number of shares)	Average Price (HK\$)	Market Trading Volume	% of Market Trading Volume
27/08/2014	438,000	7.164	58,000	7.104	5,708,000	8.69%
28/08/2014	374,000	7.183	474,000	6.834	2,192,000	38.69%
29/08/2014	556,000	6.766			1,378,000	40.35%
02/09/2014	118,000	6.679	224,000	6.244	1,724,000	19.84%
05/09/2014	114,000	6.291			658,773	17.30%
Total	1,600,000	6.932	756,000	6.680	11,660,773	20.20%

37. The transactions resulted in a loss of approximately HK\$2.67 million in the Fund's Accounts.

E2. For Ms Iu's Account

38. As of 31 July 2014, Ms Iu's Account did not have any YBD shares.

39. During the Relevant Period, pursuant to Mr Iu's instructions, 556,000 YBD shares were purchased at an average price of HK\$6.901 per share for Ms Iu's Account and ~~13,864,773~~^{556,000} YBD shares were sold at an average price of HK\$7.038 per share for Ms Iu's Account over 4 trading days.

40. These transactions constituted 8.02% of the total trading volume of YBD shares in the market on those trading days:

*Spencer & Partners
RMS
Jack S. C. Fong
Jack Fong & Co.*

Date	Purchase (number of shares)	Average Price (HK\$)	Sale (number of shares)	Average Price (HK\$)	Market Trading Volume	% of Market Trading Volume
25/08/2014	382,000	7.063			5,774,000	6.62%
27/08/2014	72,000	6.996	446,000	7.219	5,708,000	9.07%
02/09/2014	102,000	6.227	8,000	6.370	1,724,000	6.38%
05/09/2014			102,000	6.300	658,773	15.48%
Total	556,000	6.901	556,000	7.038	13,864,773	8.02%

41. The transactions resulted in a gain of HK\$76,040 to Ms Iu's Account.

E3. Matched Offers and Executions

42. On 3 of the trading days mentioned above, Mr Iu operated both the Fund's Accounts and Ms Iu's Account. He contemporaneously placed orders to purchase or to sell YBD shares for the Fund's Accounts on the one hand, and orders to sell or to purchase YBD shares for Ms Iu's Account on the other.

43. The offers to purchase or to sell shares for the Fund's Accounts or Ms Iu's Account (as the case may be) were frequently matched and executed against offers also placed by Mr Iu to sell or to purchase for Ms Iu's Account or the Fund's Accounts (as the case may be). The opposite orders resulted in 11 executed transactions between the Fund's Accounts and Ms Iu's Account.

44. As a result, the Fund's Accounts purchased 440,000 YBD shares from Ms Iu's Account, and sold 100,000 YBD shares to Ms Iu's Account.

45. Details of the orders and transactions are set out in **Annex 2**. In summary:

45.1. On 2 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with

the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts. The quantities of the orders to sell and purchase corresponded with each other.

- (ii) On 1 of the 2 occasions, the orders to sell and purchase were executed in full against each other.

45.2. On 8 occasions:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices which corresponded with the maximum prices of his orders to purchase shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to sell shares exceeded the quantities in the orders to purchase; or
- (ii) He placed orders to purchase shares for the Fund's Accounts or Ms Iu's Account at maximum prices which corresponded with the minimum prices of his orders to sell shares for Ms Iu's Account or the Fund's Accounts. The quantities in the orders to purchase shares exceeded the quantities in the orders to sell.

45.3. On 1 occasion:

- (i) Mr Iu placed orders to sell shares for the Fund's Accounts or Ms Iu's Account at minimum prices below the maximum prices in his orders to purchase shares for Ms Iu's Account or the Fund's Accounts (such that they could be executed against each other). The quantities in the orders to sell corresponded with the quantities in the remaining unexecuted orders to purchase.

F. False Trading by Matching Orders

46. By reason of the matters aforesaid:

46.1. On at least 128 occasions, Mr Iu offered to purchase and sell shares in CVG at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.

46.2. On at least 11 occasions, Mr Iu offered to purchase and sell shares in YBD at prices that were substantially the same as prices at which he had made or proposed to make, or knew that an associate of his (viz., the Fund or Ms Iu, as the case may be) had made or proposed to make, offers to sell or purchase the same or substantially the same number of them, within the meaning of section 274(5)(b) and (c) of the SFO.

G. Additional Features of Mr Iu's Trading

47. The SFC has required Mr Iu to attend interviews and has interviewed Mr Iu pursuant to an investigation under section 183 of the SFO.⁷

48. As Mr Iu admitted during the interviews, he intentionally placed orders to sell or to purchase CVG and YBD shares for the Funds' Accounts and Ms

⁷ The transcripts of the interviews, which took place on 11 February 2015, 25 June 2015, and 15 August 2017, are at [WB/1/1]; [WB/1/3]; and [WB/1/5].

Iu's Account to match against orders which he had placed to purchase or to sell CVG and YBD shares for Ms Iu's Account and the Funds' Accounts.⁸

49. The SFC has retained an independent expert in securities trading, Mr Tobias Benjamin Hekster ("**Mr Hekster**"), to analyze the orders and trades of Mr Iu in CVG and YBD shares for the Funds' Accounts and Ms Iu's Account during the Relevant Period. Mr Hekster has produced a report (the "**Expert Report**").⁹ Mr Iu agrees to and accepts the contents of the Expert Report.
50. As the Expert Reported noted, amongst the orders placed by Mr Iu for the Fund's Accounts or Ms Iu's Account during the Relevant Period:
 - 50.1. Mr Iu often placed orders to sell shares in CVG and YBD for Ms Iu's Account at minimum prices higher than the nominal prices of such shares in the market, and placed orders to purchase shares at maximum prices lower than the nominal prices of such shares in the market.
 - 50.2. In anticipation of or following such orders to sell shares for Ms Iu's Account, Mr Iu placed orders to purchase shares for the Fund's Accounts which would be executed against other offers in the market with priority over the orders to sell shares for Ms Iu's Account. The nominal price of the shares would be increased.
 - 50.3. In anticipation of or following such orders to purchase shares for Ms Iu's Account, Mr Iu placed orders to sell shares for the Fund's Accounts which would be executed against other offers in the market

⁸ See, e.g., the transcript of the interview on 11 February 2015, at counters 442 to 455, at [WB/1/1/39-40].

⁹ The Expert Report is produced at [EE/7/4/5715-5786].

with priority over the orders to purchase shares for Ms Iu's Account. The nominal price of the shares would be decreased.

50.4. As a result, the orders placed or to be placed to sell or purchase CVG or YBD shares for Ms Iu's Account could be and were executed at higher prices for selling and lower prices for purchasing.

51. Mr Iu placed the orders with the intention that the orders or their resulting transactions would:

51.1. Cause more than ordinary changes in the trading volumes or prices in the CVG or YBD shares;

51.2. Not reflect the genuine market supply and demand for the CVG or YBD shares; and

51.3. Set or maintain the price of the CVG or YBD shares at a level which did not reflect genuine market supply and demand.

H. False Trading by Creating False Appearance

52. By reason of the matters aforesaid, including in sections D, E, and G above:

52.1. Mr Iu offered to and/or did purchase and sell shares in CVG for the Fund's Accounts and Ms Iu's Account with the intention that the offers and/or purchases and sales had or were likely to have, the effect of:

(a) Creating a false or misleading appearance of active trading in CVG shares, within the meaning of section 274(1)(a) of the SFO; and/or

- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, CVG shares, within the meaning of section 274(1)(b) of the SFO.

52.2. Mr Iu offered to and/or did purchase and sell shares in YBD for the Fund's Accounts and Ms Iu's Account with the intention that the offers and/or purchases and sales had or were likely to have, the effect of:

- (a) Creating a false or misleading appearance of active trading in YBD shares, within the meaning of section 274(1)(a) of the SFO; and/or
- (b) Creating a false or misleading appearance with respect to the market for, or the price for dealings in, YBD shares, within the meaning of section 274(1)(b) of the SFO.

I. Contravention of the SFO

53. In the premises, Mr Iu admits, agrees, and accepts that he engaged in market misconduct, namely false trading contrary to section 274 of the SFO.

Dated the 26th day of April 2023.

Securities and Futures Commission

Securities and Futures Commission



Messrs Jack Fong & Co.
For the Specified Person Jonathan
Dominic Wai Ching Iu

Annex 1

Mr Iu's Trading of CVG Shares

References to shares herein are references to the listed shares of China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (stock code: 8156).

1 August 2014

1. At 9:32:01, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.690 from Ms Iu's Account:
 - 1.1. At 9:31:37, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.690 for Ms Iu's Account. The nominal price of the shares was HK\$3.580 at the time.
 - 1.2. At 9:32:01, Mr Iu placed an order to purchase up to 535,000 shares for up to HK\$3.690 for the UBS Account.
 - 1.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 20,000 shares for at least HK\$3.600 placed through East Asia Securities Company Limited ("**East Asia**") at 9:30:19;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.670 placed through Merrill Lynch Far East Limited ("**Merrill Lynch**") at 9:31:52;
 - (iii) An order to sell up to 5,000 shares for at least HK\$3.680 placed through i-Access Investors Limited ("**i-Access**") at 9:03:59;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.690 placed through Legarleon Securities Ltd ("**Legarleon**") at 9:30:29;

- (v) The order mentioned in paragraph 1.1 above.
- 1.4. At 9:32:01, the order to purchase mentioned in paragraph 1.2 above was executed against the orders to sell in paragraph 1.3 above.
- 2. At 9:32:40, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.690 from Ms Iu's Account:
 - 2.1. At 9:32:32, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.690 for Ms Iu's Account. The nominal price of the shares was HK\$3.580 at the time.
 - 2.2. At 9:32:34, Mr Iu placed an order to purchase up to 5,000 shares for up to HK\$3.580 for the UBS Account. The order was executed against an order to sell up to 5,000 shares for at least HK\$3.580 placed through China Merchants Securities (Hong Kong) Company Limited ("**China Merchants**") at 9:32:18.
 - 2.3. At 9:32:40, Mr Iu placed an order to purchase up to 510,000 shares for up to HK\$3.690 for the UBS Account.
 - 2.4. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 10,000 shares for at least HK\$3.650 placed through Chief Securities Limited ("**Chief**") at 9:32:17;
 - (ii) The order mentioned in paragraph 2.1 above.
 - 2.5. At 9:32:40, the order to purchase mentioned in paragraph 2.3 above was executed against the orders to sell mentioned in paragraph 2.4 above.

4 August 2014

3. At 9:32:00, the Fund's Accounts (Guosen Account) purchased 300,000 shares at HK\$3.590 from Ms Iu's Account:
 - 3.1. At 9:31:10, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.590 for Ms Iu's Account. The nominal price of the shares was HK\$3.430 at the time.
 - 3.2. At 9:32:00, Mr Iu placed an order to purchase up to 400,000 shares for up to HK\$3.590 for the Guosen Account.
 - 3.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 5,000 shares for at least HK\$3.500 placed through Merrill Lynch at 9:30:01;
 - (ii) An order to sell up to 45,000 shares for at least HK\$3.510 placed through Pacific Foundation Securities Limited ("Pacific") at 9:02:21;
 - (iii) The order mentioned in paragraph 3.1 above.
 - 3.4. At 9:32:00, the order to purchase mentioned in paragraph 3.2 above was executed against the orders to sell mentioned in paragraph 3.3 above to the extent of 350,000 shares.
 - 3.5. At 9:32:08, the order to purchase mentioned in paragraph 3.2 above was cancelled to the extent of the remaining 50,000 shares.
4. At 9:44:43, the Fund's Accounts (Guosen Account) purchased 285,000 shares at HK\$3.590 from Ms Iu's Account:

- 4.1. At 9:44:07, Mr Iu placed an order to sell up to 285,000 shares for at least HK\$3.590 for Ms Iu's Account. The nominal price of the shares was HK\$3.530 at the time.
- 4.2. At 9:44:43, Mr Iu placed an order to purchase up to 400,000 shares for up to HK\$3.590 for the Guosen Account.
- 4.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 10,000 shares for at least HK\$3.530 placed through BOCOM International Securities Limited ("BOCOM") at 9:38:59;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.550 placed through UBS Securities Hong Kong Limited ("UBS") at 9:37:27;
 - (iii) An order to sell up to 10,000 shares for at least HK\$3.580 placed through i-Access at 9:37:00;
 - (iv) The order mentioned in paragraph 4.1 above.
- 4.4. At 9:44:43, the order to purchase mentioned in paragraph 4.2 above was executed against the orders to sell mentioned in paragraph 4.3 above to the extent of 310,000 shares.
- 4.5. At 9:44:52, the order to purchase mentioned in paragraph 4.1 above was cancelled to the extent of the remaining 90,000 shares.

6 August 2014

5. At 9:38:52, the Fund's Accounts (Guosen Account) purchased 500,000 shares at HK\$3.500 from Ms Iu's Account:

- 5.1. At 9:37:38, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.500 for Ms Iu's Account. The nominal price of the shares was HK\$3.430 at the time.
- 5.2. At 9:38:52, Mr Iu placed an order to purchase up to 570,000 shares for up to HK\$3.500 for the Guosen Account.
- 5.3. The order would be match with the following orders in the market. In order of priority:
 - (i) An order to sell up to 5,000 shares for at least HK\$3.490 placed through i-Access at 9:14:41;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.490 placed through UBS at 9:31:32;
 - (iii) An order to sell up to 10,000 shares for at least HK\$3.490 placed through Chief at 9:38:21;
 - (iv) An order to sell up to 50,000 shares for at least HK\$3.500 placed through Win Wong Securities Limited ("**Win Wong**") at 09:00:00;
 - (v) The order mentioned in paragraph 5.1 above.
- 5.4. At 9:38:52, the order to purchase mentioned in paragraph 5.2 above was executed against the orders to sell mentioned in paragraph 5.3 above.

13 August 2014

6. At 14:10:23 and 14:10:32, the Fund's Accounts (UBS Account) sold 300,000 shares at HK\$3.110 and 200,000 shares at HK\$3.100 respectively to Ms Iu's Account:

- 6.1. At 14:02:53, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.110 for Ms Iu's Account. The nominal price of the shares was HK\$3.200 at the time.
- 6.2. Between 14:05:01 and 14:08:29, Mr Iu placed various orders to sell a total of 420,000 shares for at least HK\$3.200 for the Morgan Stanley Account.
- 6.3. At 14:05:18, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$3.220 for the Morgan Stanley Account.
- 6.4. Between 14:05:01 and 14:08:29, the orders to sell mentioned in paragraph 6.2 above were executed against various orders to purchase at the maximum price of HK\$3.200 in the market.
- 6.5. Between 14:07:46 and 14:09:44, the order to sell mentioned in paragraph 6.3 above was executed against various orders to purchase at the maximum price of HK\$3.220 in the market, including an order to purchase up to 35,000 shares for up to HK\$3.220 placed through Wing Fung Securities Ltd ("**Wing Fung**") at 14:09:44 to the extent of 30,000 shares.
- 6.6. At 14:08:42, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.100 for Ms Iu's Account. The nominal price of the shares was HK\$3.210 at the time.
- 6.7. At 14:09:15, Mr Iu placed an order to sell up to 10,000 shares for at least HK\$3.200 for the Morgan Stanley Account.
- 6.8. At 14:09:15, the order was executed against an order to purchase up to 10,000 shares for up to HK\$3.200 placed through BOCI Securities Limited ("**BOCI**") at 14:08:37.
- 6.9. At 14:09:56, Mr Iu placed another order to sell up to 5,000 shares for at least HK\$3.220 for the Morgan Stanley Account.

- 6.10. At 14:09:56, the order was executed against the order to purchase up to 35,000 shares for up to HK\$3.220 placed through Wing Fung at 14:09:44 to the extent of the remaining 5,000 shares.
- 6.11. At 14:10:23, Mr Iu placed an order to sell up to 475,000 shares for at least HK\$3.110 for the UBS Account.
- 6.12. The order would be executed against the following orders in the market, In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through Citigroup Global Markets Asia Limited (“**Citigroup**”) at 14:09:15;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.180 placed through Victory Securities Company Limited (“**Victory**”) at 14:09:22;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.170 placed through Fulbright Securities Limited (“**Fulbright**”) at 14:07:17;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.170 placed through East Asia at 14:07:36;
 - (v) An order to purchase up to 10,000 Shares for up to HK\$3.160 placed through Chief at 14:01:42;
 - (vi) An order to purchase up to 100,000 shares for up to HK\$3.150 placed through Timber Hill Securities (Hong Kong) Limited (“**Timber Hill**”) at 9:00:06;
 - (vii) An order to purchase up to 15,000 shares for up to HK\$3.150 placed through Yuanta Securities (Hong Kong) Company Limited (“**Yuanta**”) at 13:33:47;

- (viii) An order to purchase up to 5,000 shares for up to HK\$3.120 placed through Morgan Stanley Hong Kong Securities Limited (“**Morgan Stanley**”) at 14:03:34;
 - (ix) An order to purchase up to 5,000 shares for up to HK\$3.120 placed through Morgan Stanley at 14:03:43;
 - (x) An order to purchase up to 5,000 shares for up to HK\$3.110 placed through Public Financial Securities Limited (“**Public**”) at 14:02:41;
 - (xi) The order referred to in paragraph 6.1 above.
- 6.13. At 14:10:23, the order to sell mentioned in paragraph 6.11 above was executed against the orders to purchase mentioned in paragraph 6.12 above.
- 6.14. At 14:10:32, Mr Iu placed an order to sell up to 270,000 shares for at least HK\$3.100 for the UBS Account.
- 6.15. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.110 placed through Merrill Lynch at 14:10:23;
 - (ii) An order to purchase up to 50,000 shares for up to HK\$3.100 placed through Timber Hill at 9:00:11;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.100 placed through HSBC Securities Brokers (Asia) Limited (“**HSBC**”) at 14:00:34;
 - (iv) The order referred to in paragraph 6.6 above.

- 6.16. At 14:10:32, the order to sell mentioned in paragraph 6.14 above was executed against the orders to purchase mentioned in paragraph 6.15 above to the extent of 265,000 shares.
- 6.17. At 14:10:36, the order to sell mentioned in paragraph 6.14 above was executed against an order to purchase up to 5,000 shares for up to HK\$3.100 placed through Kwok Hing Securities Limited (“**Kwok Hing**”) at 14:10:36 to the extent of the remaining 5,000 shares.
7. At 14:11:48, the Fund’s Accounts (UBS Account) sold 500,000 shares at HK\$3.020 to Ms Iu’s Account:
- 7.1. At 14:11:07, Mr Iu placed an order to sell up to 65,000 shares for at least HK\$3.110 for the Morgan Stanley Account.
- 7.2. Between 14:11:17 and 14:11:29, the order was executed against various orders to purchase at the maximum price of HK\$3.110 in the market to the extent of 65,000 shares.
- 7.3. At 14:11:29, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.020 for Ms Iu’s Account. The nominal value of the shares was HK\$3.110 at the time.
- 7.4. At 14:11:48, Mr Iu placed an order to sell up to 600,000 shares for at least HK\$3.020 for the UBS Account.
- 7.5. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 10,000 shares for up to HK\$3.110 placed through South China Securities Limited (“**South China**”) at 14:11:29 to the extent of 5,000 shares;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.110 placed through Lehin Securities Limited (“**Lehin**”) at 14:11:38;

- (iii) An order to purchase up to 10,000 shares for up to HK\$3.100 placed through Fairwin Broking Limited (“**Fairwin**”) at 14:10:51 to the extent of 5,000 shares;
- (iv) An order to purchase up to 30,000 shares for up to HK\$3.100 placed through Solid King Securities Limited (“**Solid King**”) at 14:11:09;
- (v) An order to purchase up to 10,000 shares for up to HK\$3.040 placed through South China at 14:11:05;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.040 placed through Morgan Stanley at 14:11:31;
- (vii) An order to purchase up to 5,000 shares for up to HK\$3.030 placed through Morgan Stanley at 14:11:33;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.030 placed through Morgan Stanley at 14:11:34;
- (ix) An order to purchase up to 5,000 shares for up to HK\$3.030 placed through Morgan Stanley at 14:11:38;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.030 placed through Morgan Stanley at 14:11:39;
- (xi) An order to purchase up to 15,000 shares for up to HK\$3.030 placed through Core Pacific - Yamaichi International (H.K.) Limited (“**Core Pacific**”) at 14:11:41;
- (xii) The order mentioned in paragraph 7.3 above.

7.6. At 14:11:48, the order to sell mentioned in paragraph 7.4 above was executed against the orders to purchase mentioned in paragraph 7.5 above.

8. At 14:13:24, the Fund's Accounts (UBS Account) sold 305,000 shares at HK\$3.000 to Ms Iu's Account:
 - 8.1. At 14:12:49, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.000 for Ms Iu's Account. The nominal price of the shares was HK\$3.100 at the time.
 - 8.2. At 14:13:16, Mr Iu placed an order to sell up to 160,000 shares for at least HK\$3.030 for the UBS Account.
 - 8.3. At 14:13:16, the order was executed against various orders to purchase for up to HK\$3.030 in the market to the extent of 160,000 shares.
 - 8.4. At 14:13:24, Mr Iu placed an order to sell up to 495,000 shares for at least HK\$3.000 for the UBS Account.
 - 8.5. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 80,000 shares for up to HK\$3.030 placed through Magusta Securities Limited ("Magusta") at 14:13:10 to the extent of 20,000 shares;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.030 placed through Morgan Stanley at 14:13:19;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.020 placed through Timber Hill at 14:11:50;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.020 placed through Victory at 14:13:04;
 - (v) An order to purchase up to 10,000 shares for up to HK\$3.020 placed through Morgan Stanley at 14:13:13;

- (vi) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:12:44;
- (vii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:12:52;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:12:54;
- (ix) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:12:54;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:12:58;
- (xi) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:00;
- (xii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:00;
- (xiii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:01;
- (xiv) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:01;
- (xv) An order to purchase up to 10,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:01;
- (xvi) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:02;
- (xvii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:02;

- (xviii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:04;
 - (xix) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 14:13:07;
 - (xx) An order to purchase up to 15,000 shares for up to HK\$3.010 placed through KGI Securities (Hong Kong) Limited (“**KGI**”) at 14:13:09;
 - (xxi) An order to purchase up to 20,000 shares for up to HK\$3.010 placed through Core Pacific at 14:13:15 to the extent of 15,000 shares;
 - (xxii) An order to purchase up to 10,000 shares for up to HK\$3.000 placed through Phillip Securities (Hong Kong) Limited (“**Phillip**”) at 14:03:07;
 - (xxiii) An order to purchase up to 10,000 shares for up to HK\$3.000 placed through DBS Vickers (Hong Kong) Limited (“**DBS**”) at 14:10:23;
 - (xxiv) An order to purchase up to 10,000 shares for up to HK\$3.000 placed through Hang Seng Securities Limited (“**Hang Seng**”) at 14:10:24;
 - (xxv) The order mentioned in paragraph 8.1 above to the extent of 305,000 shares.
- 8.6. At 14:13:24, the order to sell mentioned in paragraph 8.3 above was executed against the orders to purchase mentioned in paragraph 8.4 above.
- 8.7. At 14:13:24, the order to purchase mentioned in 8.1 above was executed against an order to purchase up to 70,000 shares for up to HK\$3.000 placed through HSBC at 14:13:24 to the extent of 70,000 shares.

- 8.8. The order to purchase mentioned in 8.1 above was unexecuted and cancelled to the extent of the remaining 125,000 shares at the close of the market.
9. At 14:23:09, the Fund's Accounts (Morgan Stanley Account) sold 35,000 shares at HK\$3.120 to Ms Iu's Account:
- 9.1. At 14:22:12, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.120 for Ms Iu's Account.
- 9.2. At 14:22:12, the order to purchase mentioned in paragraph 9.1 above was executed against an order to sell up to 20,000 shares for at least HK\$3.120 placed through Guotai Junan Securities (Hong Kong) Limited ("**Guotai Junan**") at 14:21:44 to the extent of 15,000 shares.
- 9.3. At 14:23:09, Mr Iu placed an order to sell up to 35,000 shares for at least HK\$3.120 for the Morgan Stanley Account.
- 9.4. At 14:23:09, the order to sell was executed against the order mentioned in paragraph 9.1 above to the extent of the remaining 35,000 shares.
10. At 14:24:18, the Fund's Accounts (UBS Account) sold 200,000 shares to Ms Iu's Account at HK\$3.080:
- 10.1. At 14:24:07, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.080 for Ms Iu's Account. The nominal price of the shares was HK\$3.150 at the time.
- 10.2. At 14:24:18, Mr Iu placed an order to sell up to 205,000 shares for at least HK\$3.080 for the UBS Account.
- 10.3. The order would be executed against the following shares in the market. In order of priority:

(i) An order to purchase up to 5,000 shares for up to HK\$3.100 placed through Kuentai Securities (Kam Ngan) Company Limited (“**Kuentai**”) at 14:23:46;

(ii) The order mentioned in paragraph 10.1 above.

10.4. At 14:24:18, the order to sell mentioned in paragraph 10.2 above was executed against the orders to purchase mentioned in paragraph 10.3 above.

11. At 15:29:07, the Fund’s Accounts (UBS Account) purchased 285,000 shares at HK\$3.280 from Ms Iu’s Account:

11.1. At 15:28:41, Mr Iu placed an order to sell up to 290,000 shares for at least HK\$3.280 for Ms Iu’s Account. The nominal price of the shares was HK\$3.260 at the time.

11.2. At 15:29:07, Mr Iu placed an order to purchase up to 285,000 shares for up to HK\$3.280 for the UBS Account.

11.3. At 15:29:07, the order was executed against the order to sell mentioned in paragraph 11.1 above to the extent of 285,000 shares.

11.4. At 15:33:11, the order to sell referred to in paragraph 11.1 above was executed against an order to purchase up to 5,000 shares for up to HK\$3.280 placed through China Galaxy International Securities (Hong Kong) Company Limited at 15:33:11 to the extent of the remaining 5,000 shares.

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12. Between 9:40:55 and 9:42:23, the Fund’s Accounts (UBS Account) purchased 1,000,000 shares at HK\$3.410 from Ms Iu’s Account:

- 12.1. At 9:40:03, Mr Iu placed an order to sell up to 1,000,000 shares for at least HK\$3.410 for Ms Iu's Account.
- 12.2. At 9:40:55, Mr Iu placed an order to purchase up to 1,000,000 shares for up to HK\$3.410 for the UBS Account.
- 12.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 5,000 shares for at least HK\$3.370 placed through Wing Lung Securities Limited ("**Wing Lung**") at 9:30:00;
 - (ii) An order to sell up to 20,000 shares for at least HK\$3.370 placed through Pacific at 9:33:08;
 - (iii) An order to sell up to 10,000 shares for at least HK\$3.370 placed through Citigroup at 9:35:19;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.370 placed through UBS at 9:36:06;
 - (v) An order to sell up to 10,000 shares for at least HK\$3.370 placed through HSBC at 9:36:56;
 - (vi) An order to sell up to 5,000 shares for at least HK\$3.400 placed through i-Access at 9:03:28;
 - (vii) An order to sell up to 20,000 shares for at least HK\$3.400 placed through Solid King at 9:06:40;
 - (viii) An order to sell up to 10,000 shares for at least HK\$3.400 placed through Chief at 9:12:33;
 - (ix) The order mentioned in paragraph 12.1 above to the extent of 915,000 shares.

- 12.4. At 9:40:55, the order to purchase mentioned in paragraph 12.2 above was executed against the orders to sell mentioned in paragraph 12.3 above.
- 12.5. At 9:42:23, Mr Iu placed an order to purchase up to 85,000 shares for up to HK\$3.410 for the UBS Account.
- 12.6. At 9:42:23, the order was executed against the order to sell mentioned in paragraph 12.1 above to the extent of the remaining 85,000 shares of the latter order.
13. At 14:48:17, the Fund's Accounts (UBS Account) sold 500,000 shares at HK\$3.210 to Ms Iu's Account:
- 13.1. At 14:47:17, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.210 for Ms Iu's Account. The nominal price of the shares was HK\$3.270 at the time.
- 13.2. At 14:48:17, Mr Iu placed an order to sell up to 550,000 shares for at least HK\$3.210 for the UBS Account.
- 13.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.230 placed through Shenyin Wanguo Securities (Hong Kong) Limited ("**Shenyin**") at 14:17:17;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.230 placed through Telecom Digital Securities Limited ("**Telecom**") at 14:18:17;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.230 placed through Merrill Lynch at 14:42:32;

- (iv) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Guosen Securities (Hong Kong) Brokerage Company Limited (“**Guosen**”) at 13:36:50;
- (v) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Yue Xiu Securities Company Limited at 13:37:27;
- (vi) An order to purchase up to 10,000 shares for up to HK\$3.220 placed through HSBC at 13:56:45;
- (vii) An order to purchase up to 10,000 shares for up to HK\$3.210 placed through BOCI at 13:36:22;
- (viii) The order mentioned in paragraph 13.1 above.

13.4. At 14:48:17, the order to sell mentioned in paragraph 13.2 above was executed against the orders to purchase mentioned in paragraph 13.3 above.

14. Between 14:51:52 and 14:52:55, the Fund’s Accounts (UBS Account) sold 500,000 shares to Ms Iu’s Account at HK\$3.210:

14.1. At 14:50:20, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.210 for Ms Iu’s Account. The nominal price of the shares was HK\$3.210 at the time.

14.2. At 14:51:52, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.210 for the UBS Account.

14.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Merrill Lynch at 14:50:20;

- (ii) An order to purchase up to 10,000 shares for up to HK\$3.220 placed through Morgan Stanley at 14:50:47;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Morgan Stanley at 14:50:53;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.210 placed through Morgan Stanley at 14:48:38;
 - (v) The order mentioned in paragraph 14.1 above to the extent of 470,000 shares.
- 14.4. At 14:51:52, the order to sell mentioned in paragraph 14.2 above was executed against the orders to purchase mentioned in paragraph 14.3 above.
- 14.5. At 14:52:55, Mr Iu placed an order to sell up to 35,000 shares for at least HK\$3.210 for the UBS Account.
- 14.6. The order would be executed against the following orders in the market. In order of priority:
- (i) The order mentioned in paragraph 14.1 above up to the remaining 30,000 shares;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.210 placed through Goldman Sachs (Asia) Securities Limited (“**Goldman Sachs**”) at 14:52:55.
- 14.7. At 14:52:55, the order mentioned in paragraph 14.5 above was executed against the orders mentioned in paragraph 14.6 above.

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15. At 13:01:02, the Fund's Accounts (UBS Account) sold 900,000 shares at HK\$3.270 to Ms Iu's Account:
- 15.1. At 13:00:15, Mr Iu placed an order to purchase up to 900,000 shares for up to HK\$3.270 for Ms Iu's Account. The nominal price of the shares was HK\$3.340 at the time.
- 15.2. At 13:01:02, Mr Iu placed an order to sell up to 1,170,000 shares for at least HK\$3.270 for the UBS Account.
- 15.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 25,000 shares for up to HK\$3.350 placed through Merrill Lynch at 13:00:26;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.340 placed through Morgan Stanley at 13:00:00;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.340 placed through Morgan Stanley at 13:00:11;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.340 placed through BOCI at 13:00:49;
 - (v) An order to purchase up to 100,000 shares for up to HK\$3.330 placed through HSBC at 11:45:48;
 - (vi) An order to purchase up to 20,000 shares for up to HK\$3.330 placed through Barclays Capital Asia Limited ("**Barclays**") at 13:00:27;

- (vii) An order to purchase up to 10,000 shares for up to HK\$3.310 placed through China Everbright Securities (Hong Kong) Limited (“**Everbright**”) at 11:53:28;
- (viii) An order to purchase up to 25,000 shares for up to HK\$3.310 placed through Barclays at 13:00:00;
- (ix) An order to purchase up to 50,000 shares for up to HK\$3.300 placed through Po Sang Futures Limited (“**Po Sang**”) at 11:29:43 to the extent of 30,000 shares;
- (x) An order to purchase up to 10,000 shares for up to HK\$3.300 placed through Fulbright at 11:31:56;
- (xi) An order to purchase up to 10,000 shares for up to HK\$3.300 placed through Core Pacific at 11:50:42;
- (xii) An order to purchase up to 10,000 shares for up to HK\$3.300 placed through Everbright at 11:53:30;
- (xiii) An order to purchase up to 10,000 shares for up to HK\$3.270 placed through BOCI at 11:41:01;
- (xiv) The order mentioned in paragraph 15.1 above.

15.4. At 13:01:02, the order to sell mentioned in paragraph 15.2 above was executed against the orders to purchase mentioned in paragraphs 15.3 above.

16. At 13:01:57, the Fund’s Accounts (UBS Account) sold 50,000 shares at HK\$3.280 to Ms Iu’s Account:

16.1. At 13:01:40, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.280 for Ms Iu’s Account. The nominal price of the shares was HK\$3.280 at the time.

- 16.2. At 13:01:57, Mr Iu placed an order to sell up to 70,000 shares for at least HK\$3.280 for the UBS Account.
- 16.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 15,000 shares for up to HK\$3.290 placed through Merrill Lynch at 13:01:40;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.280 placed through Morgan Stanley at 13:01:37;
 - (iii) The order mentioned in paragraph 16.1 above.
- 16.4. At 13:01:57, the order to sell mentioned in paragraph 16.2 above was executed against the orders to purchase mentioned in paragraphs 16.3 above.
17. At 13:03:33, the Fund's Accounts (UBS Account) sold 10,000 shares at HK\$3.290 to Ms Iu's Account:
- 17.1. At 13:03:17, Mr Iu placed an order to purchase up to 10,000 shares for up to HK\$3.290 for Ms Iu's Account. The nominal price of the shares was HK\$3.370 at the time.
- 17.2. At 13:03:33, Mr Iu placed an order to sell up to 10,000 shares for at least HK\$3.290 for the UBS Account.
- 17.3. At 13:03:33, the order to sell mentioned in paragraph 17.2 above was executed against the order to purchase mentioned in paragraph 17.1 above.

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18. Between 11:14:25 and 11:14:35, the Fund's Accounts (UBS Account) sold 170,000 shares to Ms Iu's Account at HK\$3.600:

- 18.1. At 11:14:01, Mr Iu placed an order to purchase up to 170,000 shares for up to HK\$3.600 for Ms Iu's Account. The nominal price of the shares was HK\$3.720 at the time.
- 18.2. At 11:14:19, Mr Iu placed an order to sell up to 125,000 shares for at least HK\$3.650 for the UBS Account.
- 18.3. At 11:14:19, the order was executed against various orders to purchase at the maximum prices of between HK\$3.650 and HK\$3.710 in the market to the extent of 125,000 shares.
- 18.4. At 11:14:25, Mr Iu placed an order to sell up to 295,000 shares for at least HK\$3.600 for the UBS Account.
- 18.5. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 15,000 shares for up to HK\$3.620 placed through Merrill Lynch at 11:14:24;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.610 placed through FB Securities (Hong Kong) Limited ("**FB**") at 9:01:36;
 - (iii) An order to purchase up to 100,000 shares for up to HK\$3.600 placed through Huatai Financial Holdings (Hong Kong) Limited ("**Huatai**") at 10:24:11;
 - (iv) An order to purchase up to 20,000 shares for up to HK\$3.600 placed through Chong Hing Securities Limited ("**Chong Hing**") at 10:26:27;
 - (v) The order mentioned in paragraph 18.1 above to the extent of 155,000 shares.

- 18.6. At 11:14:25, the order mentioned in paragraph 18.4 above was executed against the orders mentioned in paragraphs 18.5 above.
- 18.7. At 11:14:35, Mr Iu placed an order to sell up to 15,000 shares for at least HK\$3.600 for the UBS Account.
- 18.8. At 11:14:35, the order to sell mentioned in paragraph 18.7 above was executed against the order to purchase mentioned in paragraph 18.1 above to the extent of the remaining 15,000 shares in the latter order.
19. Between 11:44:00 and 11:44:20, the Fund's Accounts (UBS Account) sold 80,000 shares at HK\$3.660 to Ms Iu's Account:
- 19.1. At 11:43:35, Mr Iu placed an order to purchase up to 80,000 shares for up to HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.750 at the time.
- 19.2. At 11:44:00, Mr Iu placed an order to sell up to 170,000 shares for at least HK\$3.660 for the UBS Account.
- 19.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through UBS at 11:28:37;
 - (ii) An order to purchase up to 25,000 shares for up to HK\$3.710 placed through Merrill Lynch at 11:41:42;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.700 placed through Everbright at 11:31:19 to the extent of 5,000 shares;
 - (iv) An order to purchase up to 20,000 shares for up to HK\$3.680 placed through BOCI at 11:21:04;

- (v) An order to purchase up to 5,000 shares for up to HK\$3.680 placed through Everbright at 11:34:51;
 - (vi) An order to purchase up to 20,000 shares for up to HK\$3.670 placed through Upbest Securities Co Ltd (“**Upbest**”) at 11:19:12
 - (vii) An order to purchase up to 30,000 shares for up to HK\$3.670 placed through China Merchants at 11:22:54;
 - (viii) An order to purchase up to 20,000 shares for up to HK\$3.660 placed through Upbest at 11:19:06;
 - (ix) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Everbright at 11:34:57;
 - (x) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Kwok Hing at 11:35:27;
 - (xi) The order mentioned in paragraph 19.1 above to the extent of 30,000 shares.
- 19.4. At 11:44:00, the order to sell mentioned in paragraph 19.2 above was executed against the orders to purchase mentioned in paragraphs 19.3 above.
- 19.5. At 11:44:20, Mr Iu placed an order to sell up to 80,000 shares for at least HK\$3.660 for the UBS Account.
- 19.6. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 25,000 shares for up to HK\$3.670 placed through Merrill Lynch at 11:44:00;

- (ii) The order mentioned in paragraph 19.1 above to the extent of the remaining 50,000 shares;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Morgan Stanley at 11:44:14.

19.7. At 11:44:20, the order to sell mentioned in paragraph 19.5 above was executed against the orders to purchase mentioned in paragraphs 19.6 above.

20. Between 15:40:58 and 15:41:20, the Fund's Accounts (UBS Account) sold 400,000 shares at HK\$3.780 to Ms Iu's Account:

20.1. At 15:40:50, Mr Iu placed an order to purchase up to 400,000 shares for up to HK\$3.780 for Ms Iu's Account. The nominal price was HK\$3.830 at the time.

20.2. At 15:40:58, Mr Iu placed an order to sell up to 320,000 shares for at least HK\$3.780 for the UBS Account.

20.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 15,000 shares for up to HK\$3.810 placed through HSBC at 15:40:52;
- (ii) An order to purchase up to 20,000 shares for up to HK\$3.800 placed through Prudential Brokerage Limited at 15:40:29 to the extent of 15,000 shares;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.800 placed through Chief at 15:40:34;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.800 placed through Merrill Lynch at 15:40:57;

- (v) An order to purchase up to 10,000 shares for up to HK\$3.790 placed through BOCI at 15:25:56;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:40:56;
- (vii) An order to purchase up to 30,000 shares for up to HK\$3.790 placed through Lehin at 15:40:56;
- (viii) An order to purchase up to 10,000 shares for up to HK\$3.780 placed through Celestial Securities Limited (“**Celestial**”) at 15:40:33;
- (ix) The order mentioned in paragraph 20.1 above to the extent of 225,000 shares.

20.4. At 15:40:58, the order mentioned in paragraph 20.2 above was executed against the orders mentioned in paragraph 20.3 above.

20.5. At 15:41:08, Mr Iu placed an order to sell up to 150,000 shares for at least HK\$3.780 for the UBS Account.

20.6. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 20,000 shares for up to HK\$3.810 placed through Merrill Lynch at 15:41:04;
- (ii) An order to purchase up to 10,000 shares for up to HK\$3.800 placed through Morgan Stanley at 15:41:04;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.800 placed through Morgan Stanley at 15:41:06;

- (iv) An order to purchase up to 20,000 shares for up to HK\$3.800 placed through Morgan Stanley at 15:41:07;
 - (v) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:06;
 - (vi) An order to purchase up to 20,000 shares for up to HK\$3.790 placed through Stockwell Securities Limited at 15:41:07;
 - (vii) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:07;
 - (viii) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:07;
 - (ix) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:07;
 - (x) The order mentioned in paragraph 20.1 above to the extent of 55,000 shares.
- 20.7. At 15:41:08, the order mentioned in paragraph 20.5 above was executed against the orders mentioned in paragraph 20.6 above.
- 20.8. At 15:41:20, Mr Iu placed an order to sell up to 130,000 shares for at least HK\$3.780 for the UBS Account.
- 20.9. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:12;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.790 placed through Morgan Stanley at 15:41:12;

- (iii) The order mentioned in paragraph 20.1 above to the extent of the remaining 120,000 shares.

20.10. At 15:41:20, the order to sell mentioned in paragraph 20.8 above was executed against the orders to purchase mentioned in paragraph 20.9 above.

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21. At 11:23:39, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$4.110 from Ms Iu's Account:

21.1. At 11:22:32, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$4.110 for Ms Iu's Account. The nominal price was HK\$4.050 at the time.

21.2. At 11:23:39, Mr Iu placed an order to purchase up to 565,000 shares for up to HK\$4.110 for the UBS Account.

21.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$4.080 placed through i-Access at 11:14:57;
- (ii) An order to sell up to 5,000 shares for at least HK\$4.080 placed through Merrill Lynch at 11:21:35;
- (iii) An order to sell up to 10,000 shares for at least HK\$4.090 placed through Kaiser Securities Limited at 11:13:15 to the extent of 5,000 shares;
- (iv) An order to sell up to 5,000 shares for at least HK\$4.090 placed through China Merchants at 11:13:46;

- (v) An order to sell up to 40,000 shares for at least HK\$4.100 placed through KGI at 11:07:24 to the extent of 20,000 shares;
- (vi) An order to sell up to 10,000 shares for at least HK\$4.110 placed through Fulbright at 11:04:10;
- (vii) An order to sell up to 15,000 shares for at least HK\$4.110 placed through Everbright at 11:21:22;
- (viii) The order mentioned in paragraph 21.1 above.

21.4. At 11:23:39, the order to purchase mentioned in paragraph 21.2 above was executed against the orders to sell mentioned in paragraph 21.3 above.

22. At 11:24:44, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$4.110 from Ms Iu's Account:

22.1. At 11:24:35, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$4.110 for Ms Iu's Account.

22.2. At 11:24:44, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$4.110 for the UBS Account.

22.3. At 11:24:44, the order to purchase mentioned in paragraph 22.2 above was executed against the order to sell mentioned in paragraph 22.1 above.

23. At 11:26:18, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$4.110 from Ms Iu's Account:

23.1. At 11:26:07, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$4.110 for Ms Iu's Account. The nominal price of the shares was HK\$4.050 at the time.

23.2. At 11:26:18, Mr Iu placed an order to purchase up to 510,000 shares for up to HK\$4.110 for the UBS Account.

23.3. The order would be executed against the following orders in the market.

In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$4.110 placed through Morgan Stanley at 11:25:04;
- (ii) An order to sell up to 5,000 shares for at least HK\$4.110 placed through Morgan Stanley at 11:25:05;
- (iii) The order mentioned in paragraph 23.1 above.

23.4. At 11:26:18, the order to purchase mentioned in paragraph 23.2 above was executed against the orders to sell mentioned in paragraph 23.3 above.

24. Between 13:01:26 and 13:04:09, the Fund's Accounts (Guosen Account) sold 995,000 shares at HK\$3.920 and 745,000 shares at HK\$3.900 to Ms Iu's Account:

24.1. At 13:00:11, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.920 for Ms Iu's Account. The nominal price of the shares was HK\$4.010 at the time.

24.2. At 13:01:09, Mr Iu placed an order to sell up to 5,000 shares for at least HK\$4.010 for the Guosen Account.

24.3. At 13:01:09, the order was executed against an order to purchase up to 5,000 shares for up to HK\$4.010 placed through Huatai at 11:59:43.

24.4. At 13:01:26, Mr Iu placed an order to sell up to 600,000 shares for at least HK\$3.920 for the Guosen Account.

24.5. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$4.000 placed through Core Pacific at 11:57:46;

- (ii) An order to purchase up to 10,000 shares for up to HK\$3.990 placed through Chief at 13:00:00;
 - (iii) An order to purchase up to 30,000 shares for up to HK\$3.970 placed through Barclays at 13:01:09;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.950 placed through Peace Town Financial Services Limited at 10:01:42;
 - (v) An order to purchase up to 25,000 shares for up to HK\$3.940 placed through Barclays at 13:01:09;
 - (vi) An order to purchase up to 50,000 shares for up to HK\$3.930 placed through Lehin at 13:01:12;
 - (vii) The order mentioned in paragraph 24.1 above to the extent of 465,000 shares.
- 24.6. At 13:01:26, the order to sell mentioned in paragraph 24.4 above was executed against the orders to purchase mentioned in paragraph 24.5 above.
- 24.7. At 13:01:31, the order mentioned in paragraph 24.1 above was executed against an order to sell up to 15,000 shares for at least HK\$3.730 placed through Hang Seng at 13:01:31 to the extent of 5,000 shares.
- 24.8. At 13:01:33, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.920 for Ms Iu's Account. The nominal price of the shares was HK\$3.930 at the time.
- 24.9. At 13:01:53, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.920 for the Guosen Account.

24.10. The order would be executed against the following orders in the market.

In order of priority:

- (i) An order to purchase up to 20,000 shares for up to HK\$3.930 placed through Merrill Lynch at 13:01:35;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:36;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:36;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:36;
- (v) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:40;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:40;
- (vii) An order to purchase up to 5,000 shares for up to HK\$3.930 placed through Morgan Stanley at 13:01:41;
- (viii) The order mentioned in paragraph 24.1 above to the extent of the remaining 30,000 shares;
- (ix) The order mentioned in paragraph 24.8 above to the extent of 420,000 shares.

24.11. At 13:01:53, the order to sell mentioned in paragraph 24.9 above was executed against the orders to purchase mentioned in paragraph 24.10 above.

24.12. At 13:02:33, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.900 for Ms Iu's Account. The nominal price of the shares was HK\$3.920 at the time.

24.13. At 13:02:55, Mr Iu placed an order to sell up to 395,000 shares for at least HK\$3.900 for the Guosen Account.

24.14. The order would be executed against the following orders in the market. In order of priority:

(i) The order mentioned in paragraph 24.8 above to the extent of the remaining 80,000 shares.

(ii) An order to purchase up to 10,000 shares for up to HK\$3.910 placed through Morgan Stanley at 9:35:57;

(iii) An order to purchase up to 10,000 shares for up to HK\$3.910 placed through Morgan Stanley at 11:50:16;

(iv) An order to purchase up to 20,000 shares for up to HK\$3.910 placed through Lehin at 13:02:38;

(v) An order to purchase up to 20,000 shares for up to HK\$3.900 placed through Guotai Junan at 10:35:07;

(vi) The order mentioned in paragraph 24.12 above to the extent of 255,000 shares.

24.15. At 13:02:55, the order to sell mentioned in paragraph 24.13 above was executed against the orders to purchase mentioned in paragraph 24.14 above.

24.16. At 13:03:34, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.900 for the Guosen Account.

24.17. The order would be executed against the following orders in the market.

In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.910 placed through Morgan Stanley at 13:03:01;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.910 placed through Morgan Stanley at 13:03:03;
- (iii) The order mentioned in paragraph 24.12 above to the extent of the remaining 245,000 shares.

24.18. At 13:03:34, the order to sell mentioned in paragraph 24.16 above was executed against the orders to purchase mentioned in paragraph 24.17 above to the extent of 255,000 shares.

24.19. At 13:04:09, Mr Iu placed an order to purchase up to 245,000 shares for up to HK\$3.900 for Ms Iu's Account.

24.20. At 13:04:09, the order to sell mentioned in paragraph 24.16 above was executed against the order to purchase mentioned in paragraph 24.19 above to the extent of the remaining 245,000 shares.

25. At 13:08:59, the Fund's Accounts (Guosen Account) sold 20,000 shares at HK\$3.900 to Ms Iu's Account:

25.1. At 13:05:35, Mr Iu placed an order to purchase up to 85,000 shares for up to HK\$3.900 for Ms Iu's Account.

25.2. At 13:05:35, the order to purchase mentioned in paragraph 25.1 above was executed against an order to sell up to 100,000 shares for at least HK\$3.900 placed through Huatai at 13:04:32 to the extent of 65,000 shares.

- 25.3. At 13:08:59, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$3.900 for the Guosen Account.
- 25.4. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 20,000 shares for up to HK\$3.910 placed through KGI at 13:08:55;
 - (ii) The order mentioned in paragraph 25.1 above to the extent of the remaining 20,000 shares;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.900 placed through Barclays at 13:06:16.
- 25.5. At 13:08:59, the order to sell mentioned in paragraph 25.3 above was executed against the orders to purchase mentioned in paragraph 25.4 above.
26. Between 14:34:11 and 14:38:48, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.950 from Ms Iu's Account:
- 26.1. At 14:32:54, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.950 for Ms Iu's Account. The nominal price of the shares was HK\$3.880 at the time.
- 26.2. At 14:34:11, Mr Iu placed an order to purchase up to 490,000 shares for up to HK\$3.950 for the UBS Account.
- 26.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.880 placed through Merrill Lynch at 14:33:05;

- (ii) An order to sell up to 10,000 shares for at least HK\$3.890 placed through BOCOM at 14:26:06;
- (iii) An order to sell up to 20,000 shares for at least HK\$3.900 placed through Po Sang at 14:32:39;
- (iv) An order to sell up to 20,000 shares for at least HK\$3.900 placed through BOCI at 14:33:47;
- (v) An order to sell up to 5,000 shares for at least HK\$3.920 placed through Morgan Stanley at 14:31:51;
- (vi) An order to sell up to 5,000 shares for at least HK\$3.930 placed through Morgan Stanley at 14:30:30;
- (vii) An order to sell up to 5,000 shares for at least HK\$3.930 placed through Morgan Stanley at 14:31:30;
- (viii) An order to sell up to 5,000 shares for at least HK\$3.930 placed through Morgan Stanley at 14:31:34;
- (ix) An order to sell up to 5,000 shares for at least HK\$3.930 placed through Morgan Stanley at 14:33:08;
- (x) An order to sell up to 100,000 shares for at least HK\$3.940 placed through Eternal Pearl Securities Limited (“**Eternal Pearl**”) at 14:28:55;
- (xi) An order to sell up to 5,000 shares for at least HK\$3.950 placed through Morgan Stanley at 14:28:34;
- (xii) The order mentioned in paragraph 26.1 above to the extent of 300,000 shares.

- 26.4. At 14:34:11, the order to purchase mentioned in paragraph 26.2 above was executed against the orders to sell mentioned in paragraph 26.3 above.
- 26.5. At 14:34:48, Mr Iu placed an order to purchase up to 225,000 shares for up to HK\$3.950 for the UBS Account.
- 26.6. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to sell up to 25,000 shares for at least HK\$3.940 placed through Merrill Lynch at 14:34:14;
 - (ii) The order mentioned in paragraph 26.1 above to the extent of the remaining 200,000 shares.
- 26.7. At 14:34:48, the order to purchase mentioned in paragraph 26.5 above was executed against the orders to sell mentioned in paragraph 26.6 above.
27. Between 14:37:11 and 14:37:43, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.950 from Ms Iu's Account:
- 27.1. At 14:36:29, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.950 for Ms Iu's Account. The nominal price of the shares was HK\$3.950 at the time.
- 27.2. At 14:37:11, Mr Iu placed an order to purchase up to 275,000 shares for up to HK\$3.950 for the UBS Account.
- 27.3. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.940 placed through Merrill Lynch at 14:36:29;

- (ii) An order to sell up to 10,000 shares for at least HK\$3.940 placed through Credit Suisse Securities (Hong Kong) Limited (“**Credit Suisse**”) at 14:36:38;
 - (iii) The order mentioned in paragraph 27.1 above to the extent of 255,000 shares.
- 27.4. At 14:37:11, the order to purchase mentioned in paragraph 27.2 was executed against the orders to sell mentioned in paragraph 27.3 above.
- 27.5. At 14:37:43, Mr Iu placed an order to purchase up to 250,000 shares for up to HK\$3.950 for the UBS Account.
- 27.6. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 5,000 shares for at least HK\$3.940 placed through Merrill Lynch at 14:37:17;
 - (ii) The order mentioned in paragraph 27.1 above to the extent of the remaining 245,000 shares.
- 27.7. At 14:37:43, the order to purchase mentioned in paragraph 27.5 above was executed against the orders to sell mentioned in paragraph 27.6 above.
28. At 14:44:54, the Fund’s Accounts (UBS Account) purchased 15,000 shares at HK\$3.940 and 500,000 shares at HK\$3,960 from Ms Iu’s Account:
- 28.1. At 14:42:58, Mr Iu placed an order to sell up to 20,000 shares for at least HK\$3.940 for Ms Iu’s Account.
 - 28.2. At 14:42:58, the order to sell mentioned in paragraph 28.1 above was executed against an order to purchase up to 10,000 shares for up to HK\$3.940 placed through HSBC at 14:41:53 to the extent of 5,000 shares.

- 28.3. At 14:44:30, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.960 for Ms Iu's Account.
- 28.4. At 14:44:54, Mr Iu placed an order to purchase up to 580,000 shares for up to HK\$3.960 for the UBS Account.
- 28.5. The order would be executed against the following orders in the market. In order of priority:
- (i) The order mentioned in paragraph 28.1 above to the extent of the remaining 15,000 shares;
 - (ii) An order to sell up to 75,000 shares for at least HK\$3.950 placed through Eternal Pearl at 14:38:30 to the extent of 65,000 shares;
 - (iii) The order mentioned in paragraph 28.3 above.
- 28.6. At 14:44:54, the order to purchase mentioned in paragraph 28.4 above was executed against the orders to sell mentioned in paragraph 28.5 above.
29. At 14:54:26, the Fund's Accounts (UBS Account) purchased 995,000 shares at HK\$3.920 from Ms Iu's Account:
- 29.1. At 14:54:00, Mr Iu placed an order to sell up to 1,000,000 shares for at least HK\$3.920 for Ms Iu's Account. The nominal price of the shares was HK\$3.920 at the time.
- 29.2. At 14:54:26, Mr Iu placed an order to purchase up to 1,000,000 shares for up to HK\$3.920 for the UBS Account.
- 29.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 20,000 shares for at least HK\$3.900 placed through HSBC at 14:54:24 to the extent of 5,000 shares;

- (ii) The order mentioned in paragraph 29.1 above to the extent of 995,000 shares.
- 29.4. At 14:54:26, the order to purchase mentioned in paragraph 29.2 above was executed against the orders to sell mentioned in paragraph 29.3 above.
- 29.5. At 14:55:46, the order mentioned in paragraph 29.1 above was executed against an order to purchase up to 10,000 shares for up to HK\$3.920 placed by BOCI at 14:55:46 to the extent of 5,000 shares.
30. Between 15:19:05 and 15:19:58, the Fund's Accounts (Guosen Account) sold 1,000,000 shares at HK\$ 3.710 to Ms Iu's Account:
- 30.1. At 15:17:57, Mr Iu placed an order to purchase up to 1,000,000 shares for up to HK\$3.710 for Ms Iu's Account. The nominal price of the shares was HK\$3.850 at the time.
 - 30.2. At 15:18:55, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.720 for the Guosen Account.
 - 30.3. At 15:18:55, the order was executed against various orders to purchase at the maximum prices of between HK\$3.720 and HK\$3.800 in the market to the extent of 200,000 shares.
 - 30.4. At 15:19:05, Mr Iu placed an order to sell up to 400,000 shares for at least HK\$3.710 for the Guosen Account.
 - 30.5. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 50,000 shares for up to HK\$3.800 placed through East Asia at 15:19:03 to the extent of 35,000 shares;

- (ii) An order to purchase up to 40,000 shares for up to HK\$3.730 placed through Merrill Lynch at 15:18:55 to the extent of 5,000 shares;
- (iii) An order to purchase up to 30,000 shares for up to HK\$3.730 placed through KGI at 15:19:04;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:05;
- (v) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:06;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:06;
- (vii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:06;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:07;
- (ix) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:07;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:07;
- (xi) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:09;
- (xii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:09;

- (xiii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:09;
- (xiv) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:09;
- (xv) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:10;
- (xvi) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:10;
- (xvii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:11;
- (xviii) An order to purchase up to 10,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:12;
- (xix) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:13;
- (xx) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:14;
- (xxi) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:15;
- (xxii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:17;
- (xxiii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:17;
- (xxiv) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:23;

- (xxv) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:39;
- (xxvi) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:40;
- (xxvii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:41;
- (xxviii) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:18:42;
- (xxix) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:19:01;
- (xxx) An order to purchase up to 5,000 shares for up to HK\$3.720 placed through Morgan Stanley at 15:19:03;
- (xxxi) An order to purchase up to 10,000 shares for up to HK\$3.710 placed through Morgan Stanley at 15:16:59;
- (xxxii) The order mentioned in paragraph 30.1 above to the extent of 180,000 shares.

- 30.6. At 15:19:05, the order to sell mentioned in paragraph 30.4 above was executed against the orders to purchase mentioned in paragraph 30.5 above.
- 30.7. At 15:19:29, Mr Iu placed an order to sell up to 615,000 shares for at least HK\$3.710 for the Guosen Account.
- 30.8. The order would be executed against the following orders in the market.
In order of priority:

(i) An order to purchase up to 40,000 shares for up to HK\$3.720 placed through Merrill Lynch at 15:19:05 to the extent of 20,000 shares;

(ii) The order mentioned in paragraph 30.1 above to the extent of 595,000 shares.

30.9. At 15:19:29, the order to sell mentioned in paragraph 30.7 above was executed against the orders to purchase mentioned in paragraph 30.8 above.

30.10. At 15:19:58, Mr Iu placed an order to sell up to 225,000 shares for at least HK\$3.710 for the Guosen Account.

30.11. At 15:19:58, the order to sell mentioned in paragraph 30.10 above was executed against the order mentioned in paragraph 30.1 above to the extent of the remaining 225,000 shares.

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31. At 10:22:52, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$ 3.840 from Ms Iu's Account:

31.1. At 10:21:48, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.840 for Ms Iu's Account. The nominal price of the shares was HK\$3.790 at the time.

31.2. At 10:22:52, Mr Iu placed an order to purchase up to 545,000 shares for up to HK\$3.840 for the UBS Account.

31.3. The order would be executed against the following orders in the market. In order of priority:

(i) An order to sell up to 15,000 shares for at least HK\$3.820 placed through Merrill Lynch at 10:22:46;

- (ii) An order to sell up to 30,000 shares for at least HK\$3.830 placed through BOCI at 10:11:24;
- (iii) The order mentioned in paragraph 31.1 above.

31.4. At 10:22:52, the order to purchase mentioned in paragraph 31.2 above was executed against the orders to sell mentioned in paragraph 31.3 above.

32. Between 11:58:48 and 11:59:30, the Fund's Accounts (Morgan Stanley Account) sold 300,000 shares at HK\$ 3.650 to Ms Iu's Account:

32.1. At 11:56:46, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.650 for Ms Iu's Account. The nominal price of the shares was HK\$3.680 at the time.

32.2. At 11:58:48, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.650 for the Morgan Stanley Account.

32.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.680 placed through BOCI at 11:57:55;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.670 placed through Everbright at 11:29:34;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.670 placed through BOCI at 11:55:46;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.670 placed through Merrill Lynch at 11:56:57;

- (v) An order to purchase up to 10,000 shares for up to HK\$3.660 placed through Kwan Yick Securities (International) Limited at 9:12:38;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Morgan Stanley at 10:57:53;
- (vii) An order to purchase up to 20,000 shares for up to HK\$3.660 placed through Eternal Pearl at 11:01:43;
- (viii) An order to purchase up to 50,000 shares for up to HK\$3.660 placed through Solid King at 11:45:59;
- (ix) An order to purchase up to 50,000 shares for up to HK\$3.660 placed through East Asia at 11:56:19;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Morgan Stanley at 11:58:00;
- (xi) An order to purchase up to 10,000 shares for up to HK\$3.650 placed through UBS at 9:30:15;
- (xii) An order to purchase up to 20,000 shares for up to HK\$3.650 placed through HSBC at 10:22:16;
- (xiii) An order to purchase up to 10,000 shares for up to HK\$3.650 placed through GF Securities (Hong Kong) Brokerage Limited (“GF”) at 10:22:26;
- (xiv) An order to purchase up to 10,000 shares for up to HK\$3.650 placed through BOCI at 10:26:16;
- (xv) An order to purchase up to 20,000 shares for up to HK\$3.650 placed through BOCI at 10:57:20;

- (xvi) An order to purchase up to 5,000 shares for up to HK\$3.650 placed through Henik Securities Limited (“**Henik**”) at 11:46:57;
 - (xvii) An order to purchase up to 5,000 shares for up to HK\$3.650 placed through Everbright at 11:48:06;
 - (xviii) The order mentioned in paragraph 32.1 above to the extent of 255,000 shares.
- 32.4. At 11:58:48, the order to sell mentioned in paragraph 32.2 above was executed against the orders to purchase mentioned in paragraph 32.3 above.
- 32.5. At 11:59:30, Mr Iu placed an order to sell up to 45,000 shares for at least HK\$3.650 for the Morgan Stanley Account.
- 32.6. At 11:59:30, the order to sell mentioned in paragraph 32.5 above was executed against the order to purchase mentioned in paragraph 32.1 above to the extent of the remaining 45,000 shares in the latter order.
33. At 15:31:17, the Fund’s Accounts (Morgan Stanley Account) sold 50,000 shares at HK\$3.680 to Ms Iu’s Account:
- 33.1. At 15:25:25, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.680 for Ms Iu’s Account. The nominal price of the shares was HK\$3.700 at the time.
 - 33.2. At 15:31:17, Mr Iu placed an order to sell up to 80,000 shares for at least HK\$3.680 for the Morgan Stanley Account.
 - 33.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 5,000 shares for up to HK\$3.690 placed through Qilu International Securities Limited (“**Qilu**”) at 15:11:28;

- (ii) An order to purchase up to 10,000 shares for up to HK\$3.690 placed through Qilu at 15:12:32;
- (iii) An order to purchase up to 10,000 shares for up to HK\$3.690 placed through Merrill Lynch at 15:28:48;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.680 placed through Morgan Stanley at 15:02:36;
- (v) The order mentioned in paragraph 33.1 above.

33.4. At 15:31:17, the order to sell mentioned in paragraph 33.2 above was executed against the orders to purchase mentioned in paragraph 33.3 above.

34. At 15:37:19, the Fund's Accounts (Morgan Stanley Account) sold 40,000 shares at HK\$3.670 and 80,000 shares at HK\$3.660 to Ms Iu's Account:

- 34.1. At 13:02:15, Mr Iu placed an order to purchase up to 80,000 shares for up to HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.710 at the time.
- 34.2. At 13:05:28, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.670 for Ms Iu's Account. The nominal price of the shares was HK\$3.710 at the time.
- 34.3. At 13:22:53, the order to purchase mentioned in paragraph 34.2 above was executed against an order to sell up to 20,000 shares for at least HK\$3.670 placed through COL Securities (Hong Kong) Limited at 13:22:53 to the extent of 10,000 shares.
- 34.4. At 15:37:19, Mr Iu placed an order to sell up to 135,000 shares for at least HK\$3.660 for the Morgan Stanley Account.

34.5. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.680 placed through BOCI at 15:32:34;
- (ii) The order mentioned in paragraph 34.2 above to the extent of the remaining 40,000 shares;
- (iii) The order mentioned in paragraph 34.1 above;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Morgan Stanley at 15:29:02.

34.6. At 15:37:19, the order to sell mentioned in paragraph 34.4 above was executed against the orders to purchase mentioned in paragraph 34.5 above.

35. At 15:47:05, the Fund's Accounts (Morgan Stanley Account) sold 100,000 shares at HK\$3.660 to Ms Iu's Account:

35.1. At 15:46:18, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.700 at the time.

35.2. At 15:47:05, Mr Iu placed an order to sell up to 120,000 shares for at least HK\$3.660 for the Morgan Stanley Account.

35.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Morgan Stanley at 15:38:57;

- (ii) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through i-Access at 15:42:35;
- (iii) An order to purchase up to 10,000 shares for up to HK\$3.660 placed through Chong Hing at 15:44:21;
- (iv) The order mentioned in paragraph 35.1 above;

35.4. At 15:47:05, the order to sell mentioned in paragraph 35.2 above was executed against the orders to purchase mentioned in paragraph 35.3 above.

36. Between 15:53:29 and 15:55:03, the Fund's Accounts (Morgan Stanley Account) sold 250,000 shares at HK\$3.660 to Ms Iu's Account:

36.1. At 15:50:16, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.660 at the time.

36.2. At 15:51:41, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.670 at the time.

36.3. At 15:53:29, Mr Iu placed an order to sell up to 295,000 shares for at least HK\$3.660 for the Morgan Stanley Account.

36.4. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 15,000 shares for up to HK\$3.690 placed through CMB International Securities Limited ("CMB") at 15:53:16;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.670 placed through Barclays at 15:51:16;

- (iii) An order to purchase up to 10,000 shares for up to HK\$3.670 placed through BOCI at 15:53:25;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.660 placed through Legarleon at 15:49:10;
 - (v) An order to purchase up to 10,000 shares for up to HK\$3.660 placed through BOCI at 15:49:11;
 - (vi) An order to purchase up to 10,000 shares for up to HK\$3.660 placed through Telecom at 15:50:00;
 - (vii) The order mentioned in paragraph 36.1 above;
 - (viii) The order mentioned in paragraph 36.2 above to the extent of 190,000 shares.
- 36.5. At 15:53:29, the order to sell mentioned in paragraph 36.3 above was executed against the orders to purchase mentioned in paragraph 36.4 above.
- 36.6. At 15:55:03, Mr Iu placed an order to sell up to 75,000 shares for at least HK\$3.660 for the Morgan Stanley Account.
- 36.7. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 25,000 shares for up to HK\$3.670 placed through CMB at 15:53:50;
 - (ii) An order to purchase up to 25,000 shares for up to HK\$3.670 placed through CMB at 15:54:16;
 - (iii) The order to purchase mentioned in paragraph 36.2 above to the extent of 10,000 shares.

(iv) An order to purchase up to 35,000 shares for up to HK\$3.660 placed through HSBC at 15:52:51 to the extent of 15,000 shares.

36.8. At 15:55:03, the order to sell mentioned in paragraph 36.6 above was executed against the orders to purchase mentioned in paragraph 36.7 above.

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37. Between 10:50:46 and 10:51:09, the Fund's's Accounts (Guosen Account) sold 295,000 shares at HK\$3.580 to Ms Iu's Account:

37.1. At 10:50:22, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.580 for Ms Iu's Account. The nominal price of the shares was HK\$3.610 at the time.

37.2. At 10:50:46, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.580 for the Guosen Account.

37.3. The order would be executed against the following orders in the market. In order of priority:

(i) An order to purchase up to 85,000 shares for up to HK\$3.600 placed through BOCI at 10:49:00;

(ii) An order to purchase up to 5,000 shares for up to HK\$3.590 placed through Morgan Stanley at 10:50:29;

(iii) An order to purchase up to 5,000 shares for up to HK\$3.590 placed through Morgan Stanley at 10:50:30;

(iv) An order to purchase up to 5,000 shares for up to HK\$3.590 placed through Morgan Stanley at 10:50:32;

- (v) The order mentioned in paragraph 37.1 above to the extent of 200,000 shares.
- 37.4. At 10:50:46, the order to sell mentioned in paragraph 37.2 above was executed against the orders to purchase mentioned in paragraph 37.3 above.
- 37.5. At 10:51:09, Mr Iu placed another order to sell up to 100,000 shares for at least HK\$3.580 for the Guosen Account.
- 37.6. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.590 placed through Morgan Stanley at 10:50:54;
 - (ii) The order mentioned in paragraph 37.1 above to the extent of 95,000 shares.
- 37.7. At 10:51:09, the order to sell mentioned in paragraph 37.5 above was executed against the orders to purchase mentioned in paragraph 37.6 above.
- 37.8. At 10:51:24, the order to purchase mentioned in paragraph 37.1 above was executed against an order to sell 20,000 shares for at least HK\$3.570 placed through BOCOM at 10:51:24 to the extent of remaining 5,000 shares.
38. At 10:51:39, the Morgan Stanley Account sold 25,000 shares at HK\$3.570 to Ms Iu's Account:
- 38.1. At 10:51:38, Mr Iu placed an order to sell up to 90,000 shares for at least HK\$3.570 for the Morgan Stanley Account.

- 38.2. At 10:51:38, the order to sell mentioned in paragraph 38 above was executed against the order to purchase up to 70,000 shares for up to HK\$3.570 placed through Timber Hill at 9:30:00 to the extent of 55,000 shares.
- 38.3. At 10:51:39, Mr Iu placed an order to purchase up to 25,000 shares for up to HK\$3.600 for Ms Iu's Account. The nominal price of the shares was HK\$3.570 at the time.
- 38.4. At 10:51:39, the order to sell mentioned in paragraph 38 above was executed against the order mentioned in paragraph 38.3 above to the extent of 25,000 shares.
- 38.5. At 10:51:43, the order to sell mentioned in paragraph 38.1 above was cancelled to the extent of the remaining 10,000 shares.
39. At 10:54:47, the Fund's Accounts (Guosen Account) sold 200,000 shares at HK\$3.530 to Ms Iu's Account:
- 39.1. At 10:54:19, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.530 for Ms Iu's Account. The nominal price of the shares was HK\$3.570 at the time.
- 39.2. At 10:54:47, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.530 for the Guosen Account.
- 39.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 10,000 shares for up to HK\$3.570 placed through Fairwin at 10:53:24;
 - (ii) An order to purchase up to 20,000 shares for up to HK\$3.550 placed through Asialink Securities Limited ("**Asialink**") at 10:53:32;

- (iii) An order to purchase up to 5,000 shares for up to HK\$3.550 placed through Wing Lung at 10:54:26;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.540 placed through FB at 10:53:16;
- (v) An order to purchase up to 5,000 shares for up to HK\$3.530 placed through Corporate Brokers Limited at 10:52:15;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.530 placed through i-Access at 10:52:19;
- (vii) The order mentioned in paragraph 39.1 above.
- (viii) An order to purchase up to 50,000 shares for up to HK\$3.530 placed through Susquehanna Hong Kong Limited (“**Susquehanna**”) at 10:54:47.

39.4. At 10:54:47, the order to sell mentioned in paragraph 39.2 above was executed against the orders to purchase mentioned in paragraph 39.3 above.

40. At 10:56:17, the Fund’s Accounts (Guosen Account) sold 200,000 shares at HK\$3.520 to Ms Iu’s Account:

40.1. At 10:55:47, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.520 for Ms Iu’s Account. The nominal price of the shares was HK\$3.570 at the time.

40.2. At 10:56:17, Mr Iu placed an order to sell up to 250,000 shares for at least HK\$3.520 for the Guosen Account.

40.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.550 placed through BOCI at 10:54:50;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.530 placed through Morgan Stanley at 10:55:52;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.530 placed through Morgan Stanley at 10:56:01;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.520 placed through Morgan Stanley at 10:55:05;
- (v) The order mentioned in paragraph 40.1 above.
- (vi) An order to purchase up to 10,000 shares for up to HK\$3.520 placed through Morgan Stanley at 10:55:54;

40.4. At 10:56:17, the order to sell mentioned in paragraph 40.2 above was executed against the orders to purchase mentioned in paragraph 40.3 above to the extent of 235,000 shares.

40.5. At 10:56:20, the order to sell mentioned in paragraph 40.2 above was executed against various orders to purchase at the maximum price of up to HK\$3.520 to the extent of the remaining 15,000 shares.

41. At 15:15:19, the Fund's Accounts (Guosen Account) sold 20,000 shares at HK\$3.610 to Ms Iu's Account:

41.1. At 15:01:49, Mr Iu placed an order to purchase up to 20,000 shares for up to HK\$3.610 for Ms Iu's Account. The nominal price of the shares was HK\$3.650 at the time.

41.2. At 15:15:19, Mr Iu placed an order to sell up to 30,000 shares for at least HK\$3.610 for the Guosen Account.

41.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.620 placed through Merrill Lynch at 15:14:55;
- (ii) The order mentioned in paragraph 41.1 above.

41.4. At 15:15:19, the order to sell mentioned in paragraph 41.2 above was executed against the orders to purchase mentioned in paragraph 41.3 above.

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42. At 9:32:50, the Fund's Accounts (UBS Account) purchased 200,000 shares at HK\$3.880 from Ms Iu's Account:

42.1. At 9:32:01, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.880 for Ms Iu's Account. The nominal price of the shares was HK\$3.760 at the time.

42.2. At 9:32:50, Mr Iu placed an order to purchase up to 260,000 shares for up to HK\$3.880 for the UBS Account.

42.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 20,000 shares for at least HK\$3.800 placed through DBS at 9:30:32;
- (ii) An order to sell up to 10,000 shares for at least HK\$3.870 placed through Merrill Lynch at 9:32:07;

(iii) An order to sell up to 30,000 shares for at least HK\$3.880 placed through BNP Paribas Securities (Asia) Limited (“BNP”) at 9:00:16;

(iv) The order mentioned in paragraph 42.1 above.

42.4. At 9:32:50, the order to purchase mentioned in paragraph 42.2 above was executed against the orders to sell mentioned in paragraph 42.3 above.

43. At 13:11:32, the Fund’s Accounts (Guosen Account) purchased 70,000 shares at HK\$3.780 from Ms Iu’s Account:

43.1. At 13:09:21, Mr Iu placed an order to sell up to 70,000 shares for at least HK\$3.780 for Ms Iu’s Account. The nominal price of the shares was HK\$3.780 at the time.

43.2. At 13:11:32, Mr Iu placed an order to purchase up to 70,000 shares for up to HK\$3.780 for the Guosen Account.

43.3. At 13:11:32, the order to purchase mentioned in paragraph 43.2 above was executed against the order to sell mentioned in paragraph 43.1 above.

44. At 14:46:59, the Fund’s Accounts (Guosen Account) purchased 100,000 shares at HK\$3.750 from Ms Iu’s Account:

44.1. At 14:46:35, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.750 for Ms Iu’s Account. The nominal price of the shares was HK\$3.740 at the time.

44.2. At 14:46:59, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.750 for the Guosen Account.

44.3. At 14:46:59, the order to purchase mentioned in paragraph 44.2 above was executed against the order to sell mentioned in paragraph 44.1 above.

45. At 15:08:42, the Fund's Accounts (Guosen Account) purchased 100,000 shares at HK\$3.770 from Ms Iu's Account:
- 45.1. At 15:08:10, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.770 for Ms Iu's Account. The nominal price of the shares was HK\$3.740 at the time.
- 45.2. At 15:08:42, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.770 for the Guosen Account.
- 45.3. At 15:08:42, the order to purchase mentioned in paragraph 45.2 above was executed against the order to sell mentioned in paragraph 45.1 above.
46. At 15:13:11, the Fund's Accounts (Guosen Account) purchased 100,000 shares at HK\$3.770 from Ms Iu's Account:
- 46.1. At 15:12:48, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.770 for Ms Iu's Account. The nominal price of the shares was HK\$3.770 at the time.
- 46.2. At 15:13:11, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.770 for the Guosen Account.
- 46.3. At 15:13:11, the order to purchase mentioned in paragraph 46.2 above was executed against the order to sell mentioned in paragraph 46.1 above.
47. Between 15:35:16 and 15:36:02, the Fund's Accounts (Guosen Account) purchased 60,000 shares at HK\$3.790 from Ms Iu's Account:
- 47.1. At 15:34:30, Mr Iu placed an order to sell up to 60,000 shares for at least HK\$3.790 for Ms Iu's Account. The nominal price of the shares was HK\$3.770 at the time.
- 47.2. At 15:35:16, Mr Iu placed an order to purchase up to 90,000 shares for up to HK\$3.790 for the Guosen Account.

47.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 25,000 shares for at least HK\$3.780 placed through Merrill Lynch at 15:34:30;
- (ii) An order to sell up to 35,000 shares for at least HK\$3.780 placed through Barclays at 15:35:14;
- (iii) An order to sell up to 50,000 shares for at least HK\$3.790 placed through KGI at 13:33:38 to the extent of 5,000 shares;
- (iv) The order mentioned in paragraph 47.1 above to the extent of 25,000 shares.

47.4. At 15:35:16, the order to purchase mentioned in paragraph 47.2 above was executed against the orders to sell mentioned in paragraph 47.3 above.

47.5. At 15:36:02, Mr Iu placed an order to purchase up to 35,000 shares for up to HK\$3.790 for the Guosen Account.

47.6. At 15:36:02, the order to purchase mentioned in paragraph 47.5 above was executed against the order mentioned in paragraph 47.1 above to the extent of the remaining 35,000 shares in the latter order.

1 September 2014

48. At 14:50:13, the Fund's Accounts (Morgan Stanley Account) sold 100,000 shares at HK\$3.610 to Ms Iu's Account:

48.1. At 14:43:05, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.610 for Ms Iu's Account. The nominal price of the shares was HK\$3.640 at the time.

- 48.2. At 14:50:13, Mr Iu placed an order to sell up to 275,000 shares for at least HK\$3.610 for the Morgan Stanley Account.
- 48.3. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to purchase up to 20,000 shares for up to HK\$3.640 placed through Merrill Lynch at 14:44:25;
 - (ii) An order to purchase up to 100,000 shares for up to HK\$3.630 placed through Phillip at 14:39:46;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.610 placed through Morgan Stanley at 14:42:25;
 - (iv) The order mentioned in paragraph 48.1 above.
 - (v) An order to purchase up to 50,000 shares for up to HK\$3.610 placed through Barclays at 14:44:27.
- 48.4. At 14:50:13, the order to sell mentioned in paragraph 48.2 above was executed against the orders to purchase mentioned in paragraph 48.3 above.
49. At 15:23:46, the Fund's Accounts (Morgan Stanley Account) sold 100,000 shares at HK\$3.610 to Ms Iu's Account:
- 49.1. At 15:14:45, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.610 for Ms Iu's Account. The nominal price of the shares was HK\$3.670 at the time.
 - 49.2. At 15:23:46, Mr Iu placed an order to sell up to 155,000 shares for at least HK\$3.610 for the Morgan Stanley Account.

49.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 20,000 shares for up to HK\$3.620 placed through Merrill Lynch at 15:22:12;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.620 placed through Morgan Stanley at 15:22:27;
- (iii) An order to purchase up to 10,000 shares for up to HK\$3.610 placed through BOCOM at 14:55:59;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.610 placed through Morgan Stanley at 15:13:02;
- (v) An order to purchase up to 5,000 shares for up to HK\$3.610 placed through Morgan Stanley at 15:13:03;
- (vi) An order to purchase up to 10,000 shares for up to HK\$3.610 placed through Chief at 15:13:22;
- (vii) The order mentioned in paragraph 49.1 above.

49.4. At 15:23:46, the order to sell mentioned in paragraph 49.2 above was executed against the orders to purchase mentioned in paragraph 49.3 above.

3 September 2014

50. At 9:56:06, the Fund's Accounts (UBS Account) purchased 100,000 shares at HK\$3.670 and 100,000 shares at HK\$3.680 from Ms Iu's Account:

50.1. At 9:50:28, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.680 for Ms Iu's Account. The nominal price of the shares was HK\$3.590 at the time.

- 50.2. At 9:53:13, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.670 for Ms Iu's Account. The nominal price of the shares was HK\$3.590 at the time.
- 50.3. At 9:56:06, Mr Iu placed an order to purchase up to 260,000 shares for up to HK\$3.680 for the UBS Account.
- 50.4. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.590 placed through Guotai Junan at 9:45:30 to the extent of 5,000 shares;
 - (ii) An order to sell up to 10,000 shares for at least HK\$3.590 placed through Barclays at 9:54:01;
 - (iii) An order to sell up to 20,000 shares for at least HK\$3.630 placed through Merrill Lynch at 9:53:24;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.640 placed through UBS at 9:30:51;
 - (v) An order to sell up to 10,000 shares for at least HK\$3.650 placed through Shacom Securities Limited ("**Shacom**") at 9:42:51;
 - (vi) An order to sell up to 10,000 shares for at least HK\$3.670 placed through Manureen Securities Limited ("**Manureen**") at 9:35:00;
 - (vii) The order mentioned in paragraph 50.2 above.
 - (viii) The order mentioned in paragraph 50.1 above.
- 50.5. At 9:56:06, the order to purchase mentioned in paragraph 50.3 above was executed against the orders to sell mentioned in paragraph 50.4 above.

51. At 10:27:41, the Fund's Accounts (UBS Account) purchased 200,000 shares at HK\$3.670 from Ms Iu's Account:
- 51.1. At 10:27:00, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.670 for Ms Iu's Account. The nominal price of the shares was HK\$3.590 at the time.
- 51.2. At 10:27:41, Mr Iu placed an order to purchase up to 255,000 shares for up to HK\$3.670 for the UBS Account.
- 51.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 40,000 shares for at least HK\$3.590 placed through BOCI at 10:25:16 to the extent of 35,000 shares;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.630 placed through Merrill Lynch at 10:27:00;
 - (iii) An order to sell up to 5,000 shares for at least HK\$3.640 placed through Morgan Stanley at 10:12:27;
 - (iv) An order to sell up to 10,000 shares for at least HK\$3.670 placed through Fairwin at 10:05:47;
 - (v) The order mentioned in paragraph 51.1 above.
- 51.4. At 10:27:41, the order to purchase mentioned in paragraph 51.2 above was executed against the orders to sell mentioned in paragraph 51.3 above.
52. At 13:37:58, the Fund's Accounts (UBS Account) purchased 50,000 shares at HK\$3.660 from Ms Iu's Account:

- 52.1. At 11:41:11, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$3.660 for Ms Iu's Account. The nominal price of the shares was HK\$3.650 at the time.
- 52.2. At 13:37:58, Mr Iu placed an order to purchase up to 55,000 shares for up to HK\$3.660 for the UBS Account.
- 52.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 5,000 shares for at least HK\$3.650 placed through Guotai Junan at 13:00:00;
 - (ii) The order mentioned in paragraph 52.1 above.
- 52.4. At 13:37:58, the order to purchase mentioned in paragraph 52.2 above was executed against the orders to sell mentioned in paragraph 52.3 above.

5 September 2014

53. At 11:21:05, the Fund's Accounts (UBS Account) purchased 300,000 shares at HK\$3.540 from Ms Iu's Account:
- 53.1. At 11:20:35, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.540 for Ms Iu's Account. The nominal price of the shares was HK\$3.480 at the time.
- 53.2. At 11:21:05, Mr Iu placed an order to purchase up to 385,000 shares for up to HK\$3.540 for the UBS Account.
- 53.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 5,000 shares for at least HK\$3.500 placed through DBS at 11:10:44;

- (ii) An order to sell up to 10,000 shares for at least HK\$3.500 placed through Merrill Lynch at 11:10:51;
- (iii) An order to sell up to 5,000 shares for at least HK\$3.510 placed through Wing Hang Shares Brother Company Limited at 11:10:54;
- (iv) An order to sell up to 5,000 shares for at least HK\$3.510 placed through DBS at 11:11:31;
- (v) An order to sell up to 10,000 shares for at least HK\$3.520 placed through DBS at 11:09:27;
- (vi) An order to sell up to 10,000 shares for at least HK\$3.530 placed through DBS at 11:08:50;
- (vii) An order to sell up to 40,000 shares for at least HK\$3.540 placed through DBS at 11:00:58;
- (viii) The order mentioned in paragraph 53.1 above.

53.4. At 11:21:05, the order to purchase mentioned in paragraph 53.2 above was executed against the orders to sell mentioned in paragraph 53.3 above.

54. At 11:31:59, the Fund's Accounts (UBS Account) purchased 200,000 shares at HK\$3.540 from Ms Iu's Account:

54.1. At 11:31:38, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.540 for Ms Iu's Account. The nominal price of the shares was HK\$3.500 at the time.

54.2. At 11:31:59, Mr Iu placed an order to purchase up to 235,000 shares for up to HK\$3.540 for the UBS Account.

54.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 25,000 shares for at least HK\$3.540 placed through Merrill Lynch at 11:21:05 to the extent of 10,000 shares;
- (ii) An order to sell up to 10,000 shares for at least HK\$3.540 placed through DBS at 11:21:17;
- (iii) An order to sell up to 15,000 shares for at least HK\$3.540 placed through Guotai Junan at 11:26:31;
- (iv) The order mentioned in paragraph 54.1 above.

54.4. At 11:31:59, the order to purchase mentioned in paragraph 54.2 above was executed against the orders to sell mentioned in paragraph 54.3 above.

10 September 2014

55. At 9:37:51, the Fund's Accounts (Guosen Account) purchased 200,000 shares at HK\$3.580 from Ms Iu's Account:

55.1. At 9:35:26, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.580 for Ms Iu's Account. The nominal price of the shares was HK\$3.500 at the time.

55.2. At 9:37:21, Mr Iu placed an order to purchase up to 1,000,000 shares for up to HK\$3.580 for the Guosen Account.

55.3. At 9:37:21, the order to purchase mentioned in paragraph 55.2 above was executed against various orders to sell at the minimum prices of between HK\$3.480 and HK\$3.560 in the market to the extent of 130,000 shares.

55.4. At 9:37:21, the order to purchase mentioned in paragraph 55.2 above was cancelled to the extent of the remaining 870,000 shares.

55.5. At 9:37:51, Mr Iu placed an order to purchase up to 230,000 shares for up to HK\$3.580 for the Guosen Account.

- 55.6. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.530 placed through Merrill Lynch at 9:37:51;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.540 placed through UBS at 9:37:51;
 - (iii) An order to sell up to 5,000 shares for at least HK\$3.540 placed through Goldman Sachs at 9:37:51;
 - (iv) The order mentioned in paragraph 55.1 above.
- 55.7. At 9:37:51, the order mentioned in paragraph 55.5 above was executed against the orders to sell mentioned in paragraph 55.6 above to the extent of 220,000 shares.
- 55.8. At 9:37:51, the order mentioned in paragraph 55.5 above was executed against an order to sell up to 10,000 shares for at least HK\$3.580 placed through Susquehanna at 9:37:51 to the extent of the remaining 10,000 shares.
56. At 9:44:59, the Fund's Accounts (Guosen Account) purchased 200,000 shares at HK\$3.530 from Ms Iu's Account:
- 56.1. At 9:44:29, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.530 for Ms Iu's Account. The nominal price of the shares was HK\$3.520 at the time.
 - 56.2. At 9:44:59, Mr Iu placed an order to purchase up to 400,000 shares for up to HK\$3.530 for the Guosen Account.
 - 56.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$3.500 placed through Merrill Lynch at 9:44:37;
- (ii) An order to sell up to 5,000 shares for at least HK\$3.500 placed through Morgan Stanley at 9:44:38;
- (iii) An order to sell up to 5,000 shares for at least HK\$3.510 placed through Morgan Stanley at 9:44:37;
- (iv) An order to sell up to 30,000 shares for at least HK\$3.520 placed through Asialink at 9:44:47;
- (v) An order to sell up to 10,000 shares for at least HK\$3.530 placed through DBS at 9:44:00;
- (vi) The order mentioned in paragraph 56.1 above.

56.4. At 9:44:59, the order to purchase mentioned in paragraph 56.2 above was executed against the orders to sell mentioned in paragraph 56.3 above to the extent of 255,000 shares.

56.5. At 9:44:59, the order to purchase mentioned in paragraph 56.2 above was cancelled to the extent of the remaining 145,000 shares.

57. At 9:51:03, the Fund's Accounts (Guosen Account) purchased 100,000 shares at HK\$3.500 from Ms Iu's Account:

57.1. At 9:50:31, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.500 for Ms Iu's Account. The nominal price of the shares was HK\$3.470 at the time.

57.2. At 9:51:03, Mr Iu placed an order to purchase up to 130,000 shares for up to HK\$3.500 for the Guosen Account.

57.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 10,000 shares for at least HK\$3.490 placed through Merrill Lynch at 9:50:51;
- (ii) An order to sell up to 5,000 shares for at least HK\$3.500 placed through Morgan Stanley at 9:46:13;
- (iii) The order mentioned in paragraph 57.1 above.

57.4. At 9:51:03, the order to purchase mentioned in paragraph 57.2 above was executed against the orders to sell mentioned in paragraph 57.3 above to the extent of 115,000 shares.

57.5. At 9:51:03, the order to purchase mentioned in paragraph 57.2 above was cancelled to the extent of the remaining 15,000 shares.

58. At 10:05:43, the Fund's Accounts (Guosen Account) purchased 200,000 shares at HK\$3.480 from Ms Iu's Account:

58.1. At 10:05:03, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.480 for Ms Iu's Account. The nominal price of the shares was HK\$3.370 at the time.

58.2. At 10:05:43, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.480 for the Guosen Account.

58.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$3.400 placed through Morgan Stanley at 10:04:47;

- (ii) An order to sell up to 5,000 shares for at least HK\$3.420 placed through Shacom at 10:04:28;
- (iii) An order to sell up to 15,000 shares for at least HK\$3.460 placed through Merrill Lynch at 10:05:38;
- (iv) An order to sell up to 5,000 shares for at least HK\$3.470 placed through Morgan Stanley at 10:05:07;
- (v) An order to sell up to 20,000 shares for at least HK\$3.470 placed through Morgan Stanley at 10:05:14;
- (vi) An order to sell up to 40,000 shares for at least HK\$3.480 placed through Henik at 10:04:54;
- (vii) The order mentioned in paragraph 58.1 above.

58.4. At 10:05:43, the order to purchase mentioned in paragraph 58.2 above was executed against the orders to sell mentioned in paragraph 58.3 above to the extent of 290,000 shares.

58.5. At 10:05:43, the order to purchase mentioned in paragraph 58.2 above was cancelled to the extent of the remaining 10,000 shares.

59. At 10:06:12, the Fund's Accounts (Guosen Account) purchased 200,000 shares at HK\$3.500 from Ms Iu's Account:

59.1. At 10:04:05, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.500 for Ms Iu's Account. The nominal price of the shares was HK\$3.400 at the time.

59.2. At 10:06:12, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.500 for the Guosen Account.

- 59.3. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.490 placed through Morgan Stanley at 10:04:38;
 - (ii) The order mentioned in paragraph 59.1 above.
- 59.4. At 10:06:12, the order to purchase mentioned in paragraph 59.2 above was executed against the orders to sell mentioned in paragraph 59.3 above to the extent of 210,000 shares.
- 59.5. At 10:06:12, the order mentioned in paragraph 59.2 above was cancelled to the extent of the remaining 90,000 shares.
60. At 10:07:40, the Fund's Accounts (Guosen Account) purchased 180,000 shares at HK\$3.470 from Ms Iu's Account:
- 60.1. At 10:07:17, Mr Iu placed an order to sell up to 180,000 shares for at least HK\$3.470 for Ms Iu's Account. The nominal price of the shares was HK\$3.410 at the time.
- 60.2. At 10:07:40, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.470 for the Guosen Account.
- 60.3. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.450 placed through Merrill Lynch at 10:07:20;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.460 placed through Morgan Stanley at 10:07:20;

- (iii) An order to sell up to 10,000 shares for at least HK\$3.460 placed through Morgan Stanley at 10:07:21;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.460 placed through Morgan Stanley at 10:07:31;
 - (v) The order mentioned in paragraph 60.1 above;
- 60.4. At 10:07:40, the order to purchase mentioned in paragraph 60.2 above was executed against the orders to sell mentioned in paragraph 60.3 above to the extent of 210,000 shares.
- 60.5. At 10:07:40, the order to purchase mentioned in paragraph 60.2 above was cancelled to the extent of the remaining 90,000 shares.
61. At 10:12:04, the Fund's Accounts (Guosen Account) purchased 50,000 shares at HK\$3.420 from Ms Iu's Account:
- 61.1. At 10:11:38, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$3.420 for Ms Iu's Account. The nominal price of the shares was HK\$3.380 at the time.
 - 61.2. At 10:12:04, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.420 for the Guosen Account.
 - 61.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 10,000 shares for at least HK\$3.400 placed through Morgan Stanley at 10:11:52;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.410 placed through Morgan Stanley at 10:11:49;

- (iii) An order to sell up to 10,000 shares for at least HK\$3.410 placed through Merrill Lynch at 10:11:52;
- (iv) An order to sell up to 5,000 shares for at least HK\$3.420 placed through Kwok Hing at 10:11:21;
- (v) The order mentioned in paragraph 61.1 above.

61.4. At 10:12:04, the order to purchase mentioned in paragraph 61.2 above was executed against the orders to sell mentioned in paragraph 61.3 above to the extent of 80,000 shares.

61.5. At 10:12:04, the order to purchase mentioned in paragraph 61.2 above was cancelled to the extent of the remaining 20,000 shares.

62. At 13:25:20, the Fund's Accounts (Morgan Stanley Account) sold 300,000 shares at HK\$3.170 to Ms Iu's Account:

62.1. At 13:22:37, Mr Iu placed an order to purchase up to 300,000 shares for up to HK\$3.170 for Ms Iu's Account. The nominal price of the shares was HK\$3.240 at the time.

62.2. At 13:24:12, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.200 for the Morgan Stanley Account.

62.3. At 13:24:12, the order was executed against various orders to purchase at the maximum prices between HK\$3.200 and HK\$3.230 in the market to the extent of 500,000 shares.

62.4. At 13:25:07, Mr Iu placed an order to sell up to 10,000 shares for at least HK\$3.200 for the Morgan Stanley Account.

62.5. At 13:25:07, the order was executed against an order to purchase up to 25,000 for up to HK\$3.200 placed through HSBC at 13:25:07 to the extent of 10,000 shares.

- 62.6. At 13:25:20, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.170 for the Morgan Stanley Account.
- 62.7. The order would be executed against the following orders in the market.
In order of priority:
- (i) The order placed through HSBC mentioned in paragraph 62.5 above to the extent of the remaining 10,000 shares;
 - (ii) An order to purchase up to 20,000 shares for up to HK\$3.190 placed through BOCI at 11:50:27 to the extent of 5,000 shares;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.190 placed through HSBC at 11:52:37;
 - (iv) An order to purchase up to 20,000 shares for up to HK\$3.190 placed through HSBC at 11:58:34;
 - (v) An order to purchase up to 10,000 shares for up to HK\$3.190 placed through East Asia at 13:00:03;
 - (vi) An order to purchase up to 10,000 shares for up to HK\$3.190 placed through BOCI at 13:00:25;
 - (vii) An order to purchase up to 5,000 shares for up to HK\$3.190 placed through HSBC at 13:03:54;
 - (viii) An order to purchase up to 10,000 shares for up to HK\$3.190 placed through Bright Smart Securities International (Hong Kong) Limited (“**Bright Smart**”) at 13:04:50;
 - (ix) An order to purchase up to 25,000 shares for up to HK\$3.190 placed through Barclays at 13:21:03 to the extent of 5,000 shares;

- (x) An order to purchase up to 10,000 shares for up to HK\$3.180 placed through BOCI at 11:38:31;
- (xi) An order to purchase up to 20,000 shares for up to HK\$3.180 placed through East Asia at 11:42:40;
- (xii) An order to purchase up to 5,000 shares for up to HK\$3.180 placed through BOCI at 11:50:44;
- (xiii) An order to purchase up to 20,000 shares for up to HK\$3.180 placed through BOCI at 13:00:05;
- (xiv) An order to purchase up to 20,000 shares for up to HK\$3.180 placed through BOCI at 13:08:06;
- (xv) An order to purchase up to 10,000 shares for up to HK\$3.180 placed through Henik at 13:10:03;
- (xvi) An order to purchase up to 10,000 shares for up to HK\$3.170 placed through BOCI at 11:55:48;
- (xvii) the order mentioned in paragraph 62.1 above.

62.8. At 13:25:20, the order to sell mentioned in paragraph 62.6 above was executed against the orders to purchase mentioned in paragraph 62.7 above to the extent of 480,000 shares.

62.9. Between 13:25:20 and 13:25:23, the order to sell mentioned in paragraph 62.6 above was later executed against various orders to purchase at the maximum price of HK\$3.170 in the market to the extent of the remaining 20,000 shares.

63. At 13:37:03, the Fund's Accounts (Morgan Stanley Account) sold 50,000 shares at HK\$3.210 to Ms Iu's Account:

- 63.1. At 13:36:35, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.210 for Ms Iu's Account. The nominal price of the shares was HK\$3.260 at the time.
- 63.2. At 13:37:03, Mr Iu placed an order to sell up to 150,000 shares for at least HK\$3.210 for the Morgan Stanley Account.
- 63.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 10,000 shares for up to HK\$3.250 placed through Jimei Securities Limited at 13:36:31;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Dah Sing Securities Limited ("**Dah Sing**") at 13:36:02
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.220 placed through Credit Suisse at 13:36:05;
 - (iv) An order to purchase up to 15,000 shares for up to HK\$3.220 placed through HSBC at 13:36:26;
 - (v) The order mentioned in paragraph 63.1 above;
- 63.4. At 13:37:03, the order to sell mentioned in paragraph 63.2 above was executed against the orders to purchase mentioned in paragraph 63.3 above to the extent of 85,000 shares.
- 63.5. At 13:37:03, the order to sell mentioned in paragraph 63.2 above was cancelled to the extent of the remaining 65,000 shares.
64. At 13:37:04, the Fund's Accounts (Morgan Stanley Account) sold 50,000 shares at HK\$3.200 to Ms Iu's Account:

- 64.1. At 13:34:47, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.200 for Ms Iu's Account. The nominal price was HK\$3.200 at the time.
- 64.2. At 13:37:04, Mr Iu placed an order to sell up to 65,000 shares for at least HK\$3.200 for the Morgan Stanley Account.
- 64.3. The order would be executed against the following orders in the market. In order of priority:
- (i) The order mentioned in paragraph 64.1 above;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through Wing Lung at 13:36:21;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through ICBC (Asia) Securities Limited at 13:36:27;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through UBS at 13:36:49.
- 64.4. At 13:37:04, the order to sell mentioned in paragraph 64.2 above was executed against the orders to purchase mentioned in paragraph 64.3 above.
65. At 13:49:47, the Fund's Accounts (Morgan Stanley Account) sold 15,000 shares at HK\$3.260 to Ms Iu's Account:
- 65.1. At 13:47:59, Mr Iu placed an order to sell up to 15,000 shares for at least HK\$3.260 for the Morgan Stanley Account. The nominal price of the shares was HK\$3.250 at the time.
 - 65.2. At 13:49:47, Mr Iu placed an order to purchase up to 45,000 shares for up to HK\$3.260 for Ms Iu's Account.

65.3. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to sell up to 30,000 shares for at least HK\$3.260 placed through Timber Hill at 13:47:34;
- (ii) The order mentioned in paragraph 65.1 above.

65.4. At 13:49:47, the order to purchase mentioned in paragraph 65.2 above was executed against the orders to sell mentioned in paragraph 65.3 above.

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66. Between 11:57:32 and 11:58:40, the Fund's Accounts (Guosen Account) sold 200,000 shares at HK\$3.240, 200,000 shares at HK\$3.210 and 100,000 shares at HK\$3.200 to Ms Iu's Account:

66.1. At 11:51:04, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.240 for Ms Iu's Account. The nominal price of the shares was HK\$3.350 at the time.

66.2. At 11:51:31, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.210 for Ms Iu's Account. The nominal price of the shares was HK\$3.350 at the time.

66.3. Between 11:53:11 and 11:57:19, Mr Iu placed a number of orders to sell 160,000 shares in total at the minimum prices of between HK\$3.250 and HK\$3.330 for the Guosen Account.

66.4. The orders were executed against various orders to purchase at the maximum prices of between HK\$3.250 and HK\$3.330 in the market to the extent of 160,000 shares.

- 66.5. At 11:55:19, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.200 for Ms Iu's Account. The nominal price of the shares was HK\$3.280 at the time.
- 66.6. At 11:57:32, Mr Iu placed an order to sell up to 205,000 shares for at least HK\$3.240 for the Guosen Account.
- 66.7. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.250 placed through Morgan Stanley at 11:56:56;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.250 placed through Morgan Stanley at 11:57:26
 - (iii) The orders mentioned in paragraph 66.1 above to the extent of 195,000 shares.
- 66.8. At 11:57:32, the order to sell mentioned in paragraph 66.6 above was executed against the orders to purchase mentioned in paragraph 66.7 above.
- 66.9. At 11:57:55, Mr Iu placed an order to sell up to 10,000 shares for at least HK\$3.260 for the Guosen Account.
- 66.10. At 11:57:55, the order was executed against various orders to purchase at the maximum price of HK\$3.260 in the market to the extent of 10,000 shares.
- 66.11. At 11:58:01, Mr Iu placed an order to sell up to 5,000 shares for at least HK\$3.240 for the Guosen Account.

- 66.12. At 11:58:01, the order to sell mentioned in paragraph 66.11 above was executed against the order to purchase mentioned in paragraph 66.1 above to the extent of the remaining 5,000 shares.
- 66.13. Between 11:58:10 and 11:58:28, Mr Iu placed a number of orders to sell a total of 45,000 shares for at least HK\$3.220 for the Guosen Account. The orders were executed against various orders to purchase at the maximum prices of between HK\$3.220 and HK\$3.230 in the market to the extent of 45,000 shares.
- 66.14. At 11:58:33, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.210 for the Guosen Account.
- 66.15. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 30,000 shares for up to HK\$3.210 placed through CMB at 10:02:44;
 - (ii) The order mentioned in paragraph 66.2 above;
 - (iii) An order to purchase up to 35,000 shares for up to HK\$3.210 placed through HSBC at 11:56:37;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.210 placed through Morgan Stanley at 11:57:44.
- 66.16. At 11:58:33, the order to sell mentioned in paragraph 66.14 above was executed against the orders to purchase mentioned in paragraph 66.15 above to the extent of 270,000 shares.
- 66.17. The order to sell mentioned in paragraph 66.14 above was later executed against various orders to purchase a total of 40,000 shares for the maximum prices of HK\$3.210 at 11:58:33 in the market to the extent of the remaining 30,000 shares.

- 66.18. At 11:58:40, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.200 for the Guosen Account.
- 66.19. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through Kwok Hing at 9:11:26;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through BOCI at 10:53:23;
 - (iii) An order to purchase up to 50,000 shares for up to HK\$3.200 placed through East Asia at 10:57:25;
 - (iv) The order mentioned in paragraph 66.5 above;
 - (v) An order to purchase up to 20,000 shares for up to HK\$3.200 placed through Taiwan Concord Capital Securities at 11:57:32;
- 66.20. At 11:58:40, the order to sell mentioned in paragraph 66.18 above was executed against the orders to purchase mentioned in paragraph 66.19 above to the extent of 180,000 shares.
- 66.21. At 11:59:03 and 11:59:06, the order to sell mentioned in paragraph 66.18 above was later executed against various orders to purchase at the maximum price of HK\$3.200 in the market to the extent of the remaining 20,000 shares.
67. At 11:59:21, the Fund's Accounts (Guosen Account) sold 20,000 shares at HK\$3.200 to Ms Iu's Account:
- 67.1. At 11:59:09, Mr Iu placed an order to purchase up to 20,000 shares for up to HK\$3.200 for Ms Iu's Account. The nominal price of the shares was HK\$3.200 at the time.

- 67.2. At 11:59:21, Mr Iu placed an order to sell up to 20,000 shares for at least HK\$3.200 for the Guosen Account.
- 67.3. At 11:59:21, the order was executed against the order to purchase mentioned in paragraph 67.1 above.
68. At 11:59:39, the Fund's Accounts (Guosen Account) sold 35,000 shares at HK\$3.200 to Ms Iu's Account:
- 68.1. At 11:59:26, Mr Iu placed an order to sell up to 40,000 shares for at least HK\$3.200 for the Guosen Account. The nominal price of the shares was HK\$3.200 at the time.
- 68.2. At 11:59:26, the order was executed against the order to purchase up to 20,000 shares for up to HK\$3.200 placed through BOCOM at 11:59:10 to the extent of 5,000 shares.
- 68.3. At 11:59:39, Mr Iu placed an order to purchase up to 35,000 shares for up to HK\$3.200 for Ms Iu's Account.
- 68.4. At 11:59:39, the order mentioned at paragraph 68.3 above was executed against the order to sell mentioned in paragraph 68.1 above to the extent of the remaining 35,000 shares in the latter order.
69. Between 13:00:48 and 13:19:39, the Fund's Accounts (Morgan Stanley Account and the Guosen Account) sold 90,000 shares at HK\$3.200 to Ms Iu's Account:
- 69.1. At 13:00:00, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.200 for Ms Iu's Account.
- 69.2. At 13:00:48, Mr Iu placed an order to sell up to 15,000 shares for at least HK\$3.200 for the Morgan Stanley Account.

- 69.3. At 13:00:48, the order mentioned at paragraph 69.2 above was executed against the order to purchase mentioned in paragraph 69.1 above to the extent of 15,000 shares.
- 69.4. At 13:01:32, the order to purchase mentioned in paragraph 69.1 above was executed against an order to sell up to 10,000 shares for at least HK\$3.200 placed through CMB at 13:01:32 to the extent of 10,000 shares.
- 69.5. At 13:19:39, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.200 for the Guosen Account.
- 69.6. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 50,000 shares for up to HK\$3.220 placed through United Simsen Securities Limited at 13:19:14;
 - (ii) An order to purchase up to 5,000 shares for up to HK\$3.210 placed through HSBC at 13:02:22;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.210 placed through Morgan Stanley at 13:19:08;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.210 placed through Morgan Stanley at 13:19:29;
 - (v) The order to purchase mentioned in paragraph 69.1 above to the extent of the remaining 75,000 shares;
 - (vi) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Hang Seng at 13:00:00;
 - (vii) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Hang Seng at 13:00:00;

- (viii) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through UBS at 13:00:03;
- (ix) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through BOCI at 13:00:40;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through Morgan Stanley at 13:02:49;
- (xi) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through BOCI at 13:05:37;
- (xii) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Chief at 13:06:30;
- (xiii) An order to purchase up to 25,000 shares for up to HK\$3.200 placed through CMB at 13:08:54;
- (xiv) An order to purchase up to 30,000 shares for up to HK\$3.200 placed through CEPA Alliance Securities Limited at 13:11:49;
- (xv) An order to purchase up to 50,000 shares for up to HK\$3.200 placed through East Asia at 13:12:52 to the extent of 40,000 shares.

69.7. At 13:19:39, the order to sell mentioned in paragraph 69.5 above was executed against the orders to purchase mentioned in paragraph 69.6 above.

70. At 13:02:42, the Fund's Accounts (Morgan Stanley Account) sold 20,000 shares at HK\$3.240 to Ms Iu's Account:

70.1. At 13:00:01, Mr Iu placed an order to sell up to 20,000 shares for at least HK\$3.240 for the Morgan Stanley Account. The nominal price of the shares was HK\$3.200 at the time.

- 70.2. At 13:02:42, Mr Iu placed an order to purchase up to 30,000 shares for up to HK\$3.240 for Ms Iu's Account.
- 70.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 5,000 shares for at least HK\$3.240 placed through Kwok Hing at 11:59:16;
 - (ii) The order mentioned in paragraph 70.1 above;
 - (iii) An order to sell up to 5,000 shares for at least HK\$3.240 placed through Credit Suisse at 13:00:06.
- 70.4. At 13:02:42, the order to purchase mentioned in paragraph 70.2 above was executed against the orders to sell mentioned in paragraph 70.3 above.
71. At 14:40:02, the Fund's Accounts (Guosen Account) sold 200,000 shares at HK\$3.300 to Ms Iu's Account:
- 71.1. At 14:36:39, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.300 for Ms Iu's Account. The nominal price of the shares was HK\$3.450 at the time.
- 71.2. Between 14:37:31 and 14:39:48, Mr Iu placed orders to sell up to a total of 2,545,000 shares at the minimum prices between HK\$3.300 and HK\$3.500 for the Guosen Account.
- 71.3. The orders were executed against various orders to purchase at maximum prices between HK\$3.320 and HK\$3.540 in the market to the extent of 590,000 shares.
- 71.4. The orders were then cancelled to the extent of the remaining 1,955,000 shares.

- 71.5. At 14:40:02, Mr Iu placed an order to sell up to 910,000 shares for at least HK\$3.300 for the Guosen Account.
- 71.6. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to purchase up to 10,000 shares for up to HK\$3.370 placed through Merrill Lynch at 14:40:01;
 - (ii) An order to purchase up to 100,000 shares for up to HK\$3.360 placed through BOCI at 14:40:01;
 - (iii) An order to purchase up to 70,000 shares for up to HK\$3.330 placed through Guotai Junan at 14:39:54;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.310 placed through Morgan Stanley at 14:38:15;
 - (v) An order to purchase up to 5,000 shares for up to HK\$3.310 placed through Morgan Stanley at 14:39:18;
 - (vi) An order to purchase up to 10,000 shares for up to HK\$3.310 placed through Morgan Stanley at 14:39:36;
 - (vii) An order to purchase up to 5,000 shares for up to HK\$3.310 placed through Morgan Stanley at 14:40:00;
 - (viii) An order to purchase up to 5,000 shares for up to HK\$3.310 placed through Morgan Stanley at 14:40:01;
 - (ix) An order to purchase up to 10,000 shares for up to HK\$3.300 placed through BOCI at 14:31:39;
 - (x) The order mentioned in paragraph 71.1 above;

- (xi) An order to purchase up to 5,000 shares for up to HK\$3.300 placed through Guotai Junan at 14:37:33;
- (xii) An order to purchase up to 5,000 shares for up to HK\$3.300 placed through Morgan Stanley at 14:39:55.

71.7. At 14:40:02, the order to sell mentioned in paragraph 71.5 above was executed against the orders to purchase mentioned in paragraph 71.6 above to the extent of 430,000 shares.

71.8. Between 14:40:02 and 14:40:06, the order to sell mentioned in paragraph 71.5 above was executed against various orders to purchase at the maximum price of HK\$3.300 in the market to the extent of 165,000 shares.

71.9. At 14:40:06, the order to sell mentioned in paragraph 71.5 above was cancelled to the extent of the remaining 315,000 shares.

72. At 14:40:59, the Fund's Accounts (Morgan Stanley Account) sold 10,000 shares at HK\$3.390 to Ms Iu's Account:

72.1. At 14:40:21, Mr Iu placed an order to sell up to 10,000 shares for at least HK\$3.390 for the Morgan Stanley Account.

72.2. At 14:40:59, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.400 for Ms Iu's Account.

72.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$3.380 placed through Morgan Stanley at 14:40:07;
- (ii) An order to sell up to 10,000 shares for at least HK\$3.380 placed through Morgan Stanley at 14:40:28;

- (iii) An order to sell up to 5,000 shares for at least HK\$3.380 placed through Kwok Hing at 14:40:29;
- (iv) The order mentioned in paragraph 72.1 above.

72.4. At 14:40:59, the order to purchase mentioned in paragraph 72.2 above was executed against the orders to sell mentioned in paragraph 72.3 above to the extent of 30,000 shares.

72.5. Between 14:41:01 and 14:41:02, the order to purchase mentioned in paragraph 72.2 above was later executed against various orders to sell for the minimum price of at least HK\$3.400 in the market to the extent of the remaining 20,000 shares.

73. At 15:37:41, the Fund's Accounts (Guosen Account) sold 190,000 shares at HK\$3.430 to Ms Iu's Account:

73.1. At 15:36:47, Mr Iu placed an order to purchase up to 190,000 shares for up to HK\$3.430 for Ms Iu's Account. The nominal price of the shares was HK\$3.440 at the time.

73.2. At 15:37:41, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.430 with the Guosen Account.

73.3. At 15:37:41, the order was executed against the order to purchase mentioned in paragraph 73.1 above to the extent of 190,000 shares.

73.4. At 15:37:41, the order was executed against an order to purchase up to 30,000 shares for up to HK\$3.430 placed through Barclays at 15:37:41 to the extent of the remaining 10,000 shares.

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74. At 9:32:28, the Fund's Account (UBS Account) purchased 500,000 shares at HK\$3.570 from Ms Iu's Account:

- 74.1. At 9:31:13, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.570 for Ms Iu's Account. The nominal price of the shares was HK\$3.400 at the time.
- 74.2. At 9:32:28, Mr Iu placed an order to purchase up to 605,000 shares for up to HK\$3.570 for the UBS Account.
- 74.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.480 placed through Merrill Lynch at 9:31:09;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.490 placed through Barclays at 9:30:01;
 - (iii) An order to sell up to 20,000 shares for at least HK\$3.500 placed through HSBC at 9:30:00;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.500 placed through UBS at 9:30:13;
 - (v) An order to sell up to 20,000 shares for at least HK\$3.530 placed through Celestial at 9:14:02;
 - (vi) An order to sell up to 5,000 shares for at least HK\$3.540 placed through i-Access at 9:01:19;
 - (vii) An order to sell up to 10,000 shares for at least HK\$3.540 placed through Manureen at 9:04:55;
 - (viii) An order to sell up to 10,000 shares for at least HK\$3.550 placed through Chief at 9:00:18;

- (ix) An order to sell up to 5,000 shares for at least HK\$3.550 placed through i-Access at 9:00:55;
- (x) An order to sell up to 5,000 shares for at least HK\$3.550 placed through i-Access at 9:02:49;
- (xi) An order to sell up to 10,000 shares for at least HK\$3.560 placed through BOCI at 9:30:31;
- (xii) The order mentioned in paragraph 74.1 above.

74.4. At 9:32:28, the order to purchase mentioned in paragraph 74.2 above was executed against the orders to sell mentioned in paragraph 74.3 above.

75. At 9:35:50, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.610 from Ms Iu's Account:

75.1. At 9:33:47, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.610 for Ms Iu's Account. The nominal price of the shares was HK\$3.500 at the time.

75.2. At 9:35:29, Mr Iu placed an order to purchase up to 65,000 shares for up to HK\$3.580 for the UBS Account.

75.3. At 9:35:29, the order was executed against various orders to sell at the minimum prices of between HK\$3.490 to HK\$3.580 in the market to the extent of 65,000 shares.

75.4. At 9:35:50, Mr Iu placed an order to purchase up to 565,000 shares for up to HK\$3.610 for the UBS Account.

75.5. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 20,000 shares for at least HK\$3.590 placed through Merrill Lynch at 9:35:29;
- (ii) An order to sell up to 10,000 shares for at least HK\$3.600 placed through BOCOM at 9:00:01;
- (iii) An order to sell up to 5,000 shares for at least HK\$3.600 placed through Wing Lung at 9:34:30;
- (iv) An order to sell up to 20,000 shares for at least HK\$3.600 placed through Hang Tai Securities Limited at 9:34:39;
- (v) The order mentioned in paragraph 75.1 above;
- (vi) An order to sell up to 10,000 shares for at least HK\$3.610 placed through Telecom at 9:34:32.

75.6. At 9:35:50, the order to purchase mentioned at paragraph 75.4 above was executed against the orders to sell mentioned in paragraph 75.5 above.

76. At 9:38:26, the Fund's Accounts (UBS Account) purchased 250,000 shares at HK\$3.630 from Ms Iu's Account:

76.1. At 9:37:28, Mr Iu placed an order to sell up to 250,000 shares for at least HK\$3.630 for Ms Iu's Account. The nominal price of the shares was HK\$3.610 at the time.

76.2. At 9:38:26, Mr Iu placed an order to purchase up to 335,000 shares for up to HK\$3.630 for the UBS Account.

76.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 5,000 shares for at least HK\$3.590 placed through Merrill Lynch at 9:37:50;

- (ii) An order to sell up to 15,000 shares for at least HK\$3.600 placed through Realink Financial Trade Limited at 9:37:39;
- (iii) An order to sell up to 10,000 shares for at least HK\$3.610 placed through Fairwin at 9:37:12;
- (iv) An order to sell up to 10,000 shares for at least HK\$3.610 placed through HSBC at 9:38:01;
- (v) An order to sell up to 20,000 shares for at least HK\$3.620 placed through Dah Sing at 9:38:21;
- (vi) An order to sell up to 10,000 shares for at least HK\$3.630 placed through Henik at 9:00:05;
- (vii) The order mentioned in paragraph 76.1 above.
- (viii) An order to sell up to 5,000 shares for at least HK\$3.630 placed through UBS at 9:37:28;
- (ix) An order to sell up to 10,000 shares for at least HK\$3.630 placed through Po Sang at 9:38:13.

76.4. At 9:38:26, the order to purchase mentioned in paragraph 76.2 above was executed against the orders to sell mentioned in paragraph 76.3 above.

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77. Between 13:02:08 and 13:02:30, the Fund's Accounts (Guosen Account) sold 500,000 shares at HK\$3.410 and 500,000 shares at HK\$3.400 from Ms Iu's Account:

77.1. At 13:01:27, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.400 for Ms Iu's Account. The nominal price of the shares was HK\$3.560 at the time.

- 77.2. At 13:01:28, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.410 for Ms Iu's Account. The nominal price of the shares was HK\$3.560 at the time.
- 77.3. At 13:01:52, Mr Iu placed an order to sell up to 1,000,000 shares for at least HK\$3.400 for the Guosen Account.
- 77.4. At 13:01:52, the order was executed against various orders to purchase at the maximum prices of between HK\$3.420 and HK\$3.510 in the market to the extent of 300,000 shares.
- 77.5. At 13:01:52, the order was then cancelled to the extent of the remaining 700,000 shares.
- 77.6. At 13:02:08, Mr Iu placed an order to sell up to 1,000,000 shares for at least HK\$3.400 for the Guosen Account.
- 77.7. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 10,000 shares for up to HK\$3.420 placed through Morgan Stanley at 13:01:57;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.420 placed through Kwok Hing at 13:01:58;
 - (iii) An order to purchase up to 5,000 shares for up to HK\$3.420 placed through Morgan Stanley at 13:02:00;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.420 placed through Morgan Stanley at 13:02:06;
 - (v) The order mentioned in paragraph 77.2 above;

(vi) An order to purchase up to 100,000 shares for up to HK\$3.400 placed through HSBC at 13:01:07;

(vii) The order mentioned in paragraph 77.1 above to the extent of 370,000 shares.

77.8. At 13:02:08, the order to sell mentioned in paragraph 77.6 above was executed against the orders to purchase mentioned in paragraph 77.7 above.

77.9. At 13:02:30, Mr Iu placed an order to sell up to 200,000 shares for at least HK\$3.400 for the Guosen Account.

77.10. The order would be executed against the following orders in the market. In order of priority:

(i) An order to purchase up to 10,000 shares for up to HK\$3.410 placed through Yicko Securities Limited (“**Yicko**”) at 13:02:23;

(ii) The order mentioned in paragraph 77.1 above to the extent of the remaining 130,000 shares.

77.11. At 13:02:30, the order to sell mentioned in paragraph 77.9 above was executed against the orders to purchase mentioned in paragraph 77.10 above to the extent of 140,000 shares.

77.12. At 13:02:30, the order to sell mentioned in paragraph 77.9 above was cancelled to the extent of the remaining 60,000 shares.

78. At 13:04:04, the Fund’s Accounts (Guosen Account) sold 500,000 shares at HK\$3.330 to Ms Iu’s Account:

78.1. At 13:03:37, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.330 for Ms Iu’s Account. The nominal price of the shares was HK\$3.430 at the time.

78.2. At 13:04:04, Mr Iu placed an order to sell up to 1,150,000 shares for at least HK\$3.300 for the Guosen Account.

78.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.410 placed through Merrill Lynch at 13:04:01;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:03:54;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:03:57;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.370 placed through Phillip at 13:03:06;
- (v) An order to purchase up to 10,000 shares for up to HK\$3.370 placed through Kwok Hing at 13:03:57;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.360 placed through Phillip at 13:03:07;
- (vii) An order to purchase up to 10,000 shares for up to HK\$3.360 placed through South China at 13:03:32;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.340 placed through Morgan Stanley at 13:03:41;
- (ix) An order to purchase up to 5,000 shares for up to HK\$3.340 placed through Morgan Stanley at 13:03:48;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.340 placed through Morgan Stanley at 13:03:56;

- (xi) The order mentioned in paragraph 78.1 above;
- (xii) An order to purchase up to 10,000 shares for up to HK\$3.320 placed through Yicko at 13:02:43.

78.4. At 13:04:04, the order to sell mentioned in paragraph 78.2 above was executed against the orders to purchase mentioned in paragraph 78.3 above to the extent of 575,000 shares.

78.5. At 13:04:04, the order to sell mentioned in paragraph 78.2 above was cancelled to the extent of the remaining 575,000 shares.

79. At 13:07:03, the Fund's Accounts (Guosen Account) sold 35,000 shares at HK\$3.450 to Ms Iu's Account:

79.1. At 13:05:33, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.450 for Ms Iu's Account. The nominal price of the shares was HK\$3.450 at the time.

79.2. At 13:05:33 and 13:05:40, the order was executed against various orders to purchase at HK\$3.450 in the market to the extent of 15,000 shares.

79.3. At 13:07:03, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$3.450 for the Guosen Account.

79.4. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.460 placed through Merrill Lynch at 13:06:52;
- (ii) The order mentioned in paragraph 79.1 above to the extent of the remaining 35,000 shares;

- (iii) An order to purchase up to 5,000 shares for up to HK\$3.450 placed through Credit Suisse at 13:06:19.
- 79.5. At 13:07:03, the order to sell mentioned in paragraph 79.3 above was executed against the orders to purchase mentioned in paragraph 79.4 above to the extent of 45,000 shares.
- 79.6. At 13:07:03, the order to sell mentioned in paragraph 79.3 above was cancelled to the extent of the remaining 5,000 shares.
80. At 13:08:35, the Fund's Accounts (Guosen Account) sold 500,000 shares at HK\$3.400 to Ms Iu's Account:
- 80.1. At 13:08:05, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.400 for Ms Iu's Account. The nominal price of the shares was HK\$3.520 at the time.
 - 80.2. At 13:08:35, Mr Iu placed an order to sell up to 1,500,000 shares for at least HK\$3.400 for the Guosen Account.
 - 80.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 10,000 shares for up to HK\$3.460 placed through Merrill Lynch at 13:08:05;
 - (ii) An order to purchase up to 10,000 shares for up to HK\$3.450 placed through HSBC at 13:08:04;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.430 placed through i-Access at 13:07:56;
 - (iv) An order to purchase up to 5,000 shares for up to HK\$3.410 placed through Morgan Stanley at 13:08:14;

- (v) An order to purchase up to 5,000 shares for up to HK\$3.410 placed through Morgan Stanley at 13:08:15;
- (vi) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through Bright Smart at 13:05:59;
- (vii) An order to purchase up to 30,000 shares for up to HK\$3.400 placed through Asialink at 13:06:49;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through UBS at 13:07:43;
- (ix) The order mentioned in paragraph 80.1 above;
- (x) An order to purchase up to 70,000 shares for up to HK\$3.400 placed through Barclays at 13:08:08;
- (xi) An order to purchase up to 10,000 shares for up to HK\$3.400 placed through Henik at 13:08:30.

80.4. At 13:08:35, the order to sell mentioned in paragraph 80.2 above was executed against the orders to purchase mentioned in paragraph 80.3 above to the extent of 660,000 shares.

80.5. At 13:08:35, the order to sell mentioned in paragraph 80.2 above was cancelled to the extent of the remaining 840,000 shares.

81. Between 13:36:25 and 13:36:35, the Fund's Accounts (Guosen Account) sold 50,000 shares at HK\$3.480 and 100,000 shares at HK\$3.400 to Ms Iu's Account:

81.1. At 13:09:04, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$3.400 for Ms Iu's Account. The nominal price was HK\$3.520 at the time.

- 81.2. At 13:12:50, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$3.480 for Ms Iu's Account. The nominal price of the shares was HK\$3.550 at the time.
- 81.3. At 13:36:25, Mr Iu placed an order to sell up to 1,840,000 shares for at least HK\$3.400 for the Guosen Account.
- 81.4. The order would be executed against the following orders in the market. In order of priority:
- (i) An order purchase up to 35,000 shares for up to HK\$3.530 placed through KGI at 13:22:11 to the extent of 10,000 shares;
 - (ii) An order to purchase up to 35,000 shares for up to HK\$3.530 placed through GF at 13:32:50;
 - (iii) An order to purchase up to 50,000 shares for up to HK\$3.520 placed through Wing Lung at 13:08:49 to the extent of 15,000 shares;
 - (iv) An order to purchase up to 10,000 shares for up to HK\$3.500 placed through GF at 13:10:04;
 - (v) An order to purchase up to 5,000 shares for up to HK\$3.500 placed through UBS at 13:28:57;
 - (vi) The order mentioned in paragraph 81.2 above;
 - (vii) An order to purchase up to 10,000 shares for up to HK\$3.460 placed through HSBC at 13:22:33;
 - (viii) An order to purchase up to 5,000 shares for up to HK\$3.450 placed through i-Access at 13:31:10.

- 81.5. At 13:36:25, the order to sell mentioned in paragraph 81.3 above was executed against the orders to purchase mentioned in paragraph 81.4 above to the extent of 140,000 shares.
- 81.6. At 13:36:25, the order mentioned in paragraph 81.3 above was cancelled to the extent of the remaining 1,700,000 shares.
- 81.7. At 13:36:35, Mr Iu placed an order to sell up to 1,700,000 shares for at least HK\$3.400 for the Guosen Account.
- 81.8. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 40,000 shares for up to HK\$3.430 placed through Merrill Lynch at 13:36:31;
 - (ii) An order to purchase up to 100,000 shares for up to HK\$3.420 placed through BOCI at 13:25:53;
 - (iii) An order to purchase up to 10,000 shares for up to HK\$3.410 placed through Morgan Stanley at 13:10:07;
 - (iv) An order to purchase up to 100,000 shares for up to HK\$3.410 placed through Lehin at 13:21:40;
 - (v) An order to purchase up to 5,000 shares for up to HK\$3.410 placed through Morgan Stanley at 13:36:31;
 - (vi) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:08:54;
 - (vii) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:08:44;

- (viii) An order to purchase up to 10,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:08:57;
 - (ix) An order to purchase up to 10,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:09:01;
 - (x) The order mentioned in paragraph 81.1 above;
 - (xi) An order to purchase up to 50,000 shares for up to HK\$3.400 placed through East Asia at 13:09:25;
 - (xii) An order to purchase up to 5,000 shares for up to HK\$3.400 placed through i-Access at 13:12:27;
 - (xiii) An order to purchase up to 10,000 shares for up to HK\$3.400 placed through Morgan Stanley at 13:17:04;
 - (xiv) An order to purchase up to 30,000 shares for up to HK\$3.400 placed through Asialink at 13:25:01;
- 81.9. At 13:36:35, the order to sell mentioned in paragraph 81.7 above was executed against the orders to purchase mentioned in paragraph 81.8 above to the extent of 480,000 shares.
- 81.10. At 13:36:35, the order to sell mentioned in paragraph 81.7 above was cancelled to the extent of the remaining 1,220,000 shares.

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82. At 10:06:42, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.630 from Ms Iu's Account:
- 82.1. At 10:05:36, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.630 for Ms Iu's Account. The nominal price of the shares was HK\$3.550 at the time.

82.2. At 10:06:42, Mr Iu placed an order to purchase up to 565,000 shares for up to HK\$3.630 for the UBS Account.

82.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 20,000 shares for at least HK\$3.550 placed through Guotai Junan at 10:05:12 to the extent of 15,000 shares;
- (ii) An order to sell up to 20,000 shares for at least HK\$3.560 placed through Guotai Junan at 10:03:44;
- (iii) An order to sell up to 5,000 shares for at least HK\$3.590 placed through Merrill Lynch at 9:49:32;
- (iv) An order to sell up to 15,000 shares for at least HK\$3.600 placed through Bright Smart at 9:38:46;
- (v) An order to sell up to 5,000 shares for at least HK\$3.620 placed through Million Rich Securities Limited at 9:31:03;
- (vi) An order to sell up to 5,000 shares for at least HK\$3.630 placed through i-Access at 9:59:18;
- (vii) The order mentioned in paragraph 82.1 above.

82.4. At 10:06:42, the order to purchase mentioned in paragraph 82.2 above was executed against the orders to sell mentioned in paragraph 82.3 above.

83. At 10:08:03, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.630 from Ms Iu's Account:

83.1. At 10:07:28, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.630 for Ms Iu's Account. The nominal price of the shares was HK\$3.630 at the time.

- 83.2. At 10:08:03, Mr Iu placed an order to purchase up to 520,000 shares for up to HK\$3.630 for the UBS Account.
- 83.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 15,000 shares for at least HK\$3.630 placed through Merrill Lynch at 10:06:46;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.630 placed through Barclays at 10:07:08;
 - (iii) The order mentioned in 83.1 above.
- 83.4. At 10:08:03, the order to purchase mentioned in paragraph 83.2 above was executed against the orders to sell mentioned in paragraph 83.3 above.
84. At 10:11:53, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.630 from Ms Iu's Account:
- 84.1. At 10:10:57, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.630 for Ms Iu's Account. The nominal price of the shares was HK\$3.630 at the time.
- 84.2. At 10:11:53, Mr Iu placed an order to purchase up to 510,000 shares for up to HK\$3.630 for the UBS Account.
- 84.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.620 placed through Merrill Lynch at 10:10:57 to the extent of 5,000 shares;
 - (ii) An order to sell up to 20,000 shares for at least HK\$3.630 placed through HSBC at 10:10:49 to the extent of 5,000 shares;

(iii) The order mentioned in paragraph 84.1 above.

84.4. At 10:11:53, the order to purchase mentioned in paragraph 84.2 above was executed against the orders to sell mentioned in paragraph 84.3 above.

85. At 11:49:43, the Fund's Accounts (UBS Account) purchased 250,000 shares at HK\$3.590 from Ms Iu's Account:

85.1. At 11:48:47, Mr Iu placed an order to sell up to 250,000 shares for at least HK\$3.590 for Ms Iu's Account. The nominal price of the shares was HK\$3.540 at the time.

85.2. At 11:49:43, Mr Iu placed an order to purchase up to 310,000 shares for up to HK\$3.590 for the UBS Account.

85.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 35,000 shares for at least HK\$3.540 placed through BOCOM at 11:30:54 to the extent of 15,000 shares;
- (ii) An order to sell up to 5,000 shares for at least HK\$3.540 placed through Barclays at 11:33:46;
- (iii) An order to sell up to 5,000 shares for at least HK\$3.580 placed through Merrill Lynch at 11:48:09;
- (iv) An order to sell up to 90,000 shares for at least HK\$3.590 placed through BOCOM at 11:06:30 to the extent of 30,000 shares;
- (v) An order to sell up to 5,000 shares for at least HK\$3.590 placed through CCB International Securities Limited at 11:12:19;
- (vi) The order mentioned in paragraph 85.1 above.

- 85.4. At 11:49:43, the order to purchase mentioned in paragraph 85.2 above was executed against the orders to sell mentioned in paragraph 85.3 above.
86. At 14:14:52, the Fund's Accounts (UBS Account) purchased 500,000 shares at HK\$3.590 from Ms Iu's Account:
- 86.1. At 14:13:57, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.590 for Ms Iu's Account. The nominal price of the shares was HK\$3.540 at the time.
- 86.2. At 14:14:52, Mr Iu placed an order to purchase up to 645,000 shares for up to HK\$3.590 for the UBS Account.
- 86.3. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 10,000 shares for at least HK\$3.560 placed through Shenyin Wanguo Securities (Hong Kong) Limited at 14:01:41;
 - (ii) An order to sell up to 60,000 shares for at least HK\$3.570 placed through Po Sang at 13:54:37;
 - (iii) An order to sell up to 20,000 shares for at least HK\$3.580 placed through UBS at 13:43:14;
 - (iv) An order to sell up to 50,000 shares for at least HK\$3.580 placed through Po Sang at 13:54:57;
 - (v) An order to sell up to 5,000 shares for at least HK\$3.590 placed through i-Access at 13:06:19;
 - (vi) The order mentioned in paragraph 86.1 above.

86.4. At 14:14:52, the order to purchase mentioned in paragraph 86.2 above was executed against the orders to sell mentioned in paragraph 86.3 above.

23 September 2014

87. At 9:32:03, the Fund's Accounts (Guosen Account) purchased 500,000 shares at HK\$3.640 from Ms Iu's Account:

87.1. At 9:31:40, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.640 for Ms Iu's Account. The nominal price of the shares was HK\$3.610 at the time.

87.2. At 9:32:03, Mr Iu placed an order to purchase up to 800,000 shares for up to HK\$3.640 for the Guosen Account.

87.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to sell up to 30,000 shares for at least HK\$3.600 placed through Merrill Lynch at 9:31:40;
- (ii) An order to sell up to 5,000 shares for at least HK\$3.600 placed through UBS at 9:31:42;
- (iii) An order to sell up to 10,000 shares for at least HK\$3.610 placed through HSBC at 9:31:37;
- (iv) An order to sell up to 15,000 shares for at least HK\$3.630 placed through BOCI at 9:30:55;
- (v) An order to sell up to 10,000 shares for at least HK\$3.630 placed through Hang Seng at 9:31:00;
- (vi) An order to sell up to 5,000 shares for at least HK\$3.630 placed through UBS at 9:31:08;

(vii) The order mentioned in paragraph 87.1 above.

87.4. At 9:32:03, the order to purchase mentioned in paragraph 87.2 above was executed against the orders to sell mentioned in paragraph 87.3 above to the extent of 575,000 shares.

87.5. At 9:32:03, the remaining order to purchase mentioned in paragraph 87.2 above was cancelled to the extent of the remaining 225,000 shares.

26 September 2014

88. Between 9:31:42 and 9:31:58, the Fund's Accounts (Guosen Account) sold 800,000 shares at HK\$3.000 to Ms Iu's Account:

88.1. At 9:31:13, Mr Iu placed an order to purchase up to 800,000 shares for up to HK\$3.000 for Ms Iu's Account. The nominal price of the shares was HK\$3.030 at the time.

88.2. At 9:31:23, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.000 for the Guosen Account.

88.3. At 9:31:23, the order was executed against various orders to purchase at the maximum prices of between HK\$3.000 and HK\$3.030 in the market to the extent of 100,000 shares.

88.4. At 9:31:42, Mr Iu placed an order to sell up to 900,000 shares for at least HK\$3.000 for the Guosen Account.

88.5. The order would be executed against the following orders in the market. In order of priority:

(i) An order to purchase up to 20,000 shares for up to HK\$3.010 placed through Core Pacific at 9:31:27 to the extent of 15,000 shares;

- (ii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 9:31:30;
- (iii) An order to purchase up to 130,000 shares for up to HK\$3.010 placed through Lehin at 9:31:39;
- (iv) An order to purchase up to 95,000 shares for up to HK\$3.010 placed through Magusta at 9:31:40;
- (v) An order to purchase up to 10,000 shares for up to HK\$3.000 placed through Morgan Stanley at 9:30:00 to the extent of 5,000 shares;
- (vi) The order mentioned in paragraph 88.1 above to the extent of 650,000 shares.

88.6. At 9:31:42, the order to sell mentioned in paragraph 88.4 above was executed against the orders to purchase mentioned in paragraph 88.5 above.

88.7. At 9:31:58, Mr Iu placed an order to sell up to 400,000 shares for at least HK\$3.000 for the Guosen Account.

88.8. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 100,000 shares for up to HK\$3.010 placed through Lehin at 9:31:53;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Barclays at 9:31:53;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 9:31:55;

- (iv) An order to purchase up to 5,000 shares for up to HK\$3.010 placed through Morgan Stanley at 9:31:57;
- (v) The order mentioned in paragraph 88.1 above to the extent of the remaining 150,000 shares;
- (vi) An order to purchase up to 20,000 shares for up to HK\$3.000 placed through DBS at 9:31:58.

88.9. At 9:31:58, the order to sell mentioned in paragraph 88.7 above was executed against the orders to purchase mentioned in paragraph 88.8 above to the extent of 285,000 shares.

88.10. At 9:31:58, the order to sell mentioned in paragraph 88.7 above was cancelled to the extent of the remaining 115,000 shares.

29 September 2014

89. At 9:31:48, the Fund's Accounts (UBS Account) purchased 1,200,000 shares at HK\$3.600 from Ms Iu's Account:

89.1. At 9:31:08, Mr Iu placed an order to sell up to 500,000 shares for at least HK\$3.600 for Ms Iu's Account. The nominal price of the shares was HK\$3.350 at the time.

89.2. At 9:31:10, Mr Iu placed an order to sell up to 700,000 shares for at least HK\$3.600 for Ms Iu's Account. The nominal price of the shares was HK\$3.350 at the time.

89.3. At 9:31:19, Mr Iu placed an order to purchase up to 35,000 shares for up to HK\$3.500 for the UBS Account.

89.4. At 9:31:19, the order was executed against various orders to sell at the minimum prices of between HK\$3.450 to 3.500 in the market to the extent of 35,000 shares.

- 89.5. At 9:31:44, Mr Iu placed an order to purchase up to 15,000 shares for up to HK\$3.550 for the UBS Account.
- 89.6. At 9:31:44, the order was executed against various orders to sell at the minimum prices of between HK\$3.480 to 3.550 in the market to the extent of 15,000 shares.
- 89.7. At 9:31:48, Mr Iu placed an order to purchase up to 1,265,000 shares for up to HK\$3.600 for the UBS Account.
- 89.8. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 15,000 shares for at least HK\$3.580 placed through i-Access at 9:30:43;
 - (ii) An order to sell up to 5,000 shares for at least HK\$3.580 placed through UBS at 9:30:54;
 - (iii) An order to sell up to 20,000 shares for at least HK\$3.600 placed through Hang Seng at 9:30:42;
 - (iv) An order to sell up to 5,000 shares for at least HK\$3.600 placed through Chief at 9:31:01;
 - (v) The order mentioned in paragraph 89.1 above;
 - (vi) The order mentioned in paragraph 89.2 above;
 - (vii) An order to sell up to 20,000 shares for at least HK\$3.600 placed through Solid King at 9:31:42.
- 89.9. At 9:31:48, the order to purchase mentioned in paragraph 89.7 above was executed against the orders to sell mentioned in paragraph 89.8 above.

90. Between 11:35:58 and 11:36:23, the Fund's Accounts (Guosen Account) sold 200,000 shares at HK\$3.200 and 200,000 shares at HK\$3.180 to Ms Iu's Account:

90.1. At 11:32:45, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.200 for Ms Iu's Account. The nominal price of the shares at the time was HK\$3.320.

90.2. At 11:35:39, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.220 for the Guosen Account.

90.3. At 11:35:39, the order was executed against various orders to purchase at prices between HK\$3.280 and HK\$3.310 in the market to the extent of 100,000 shares.

90.4. At 11:35:39, Mr Iu placed an order to purchase up to 200,000 shares for up to HK\$3.180 for Ms Iu's Account. The nominal price of the shares at the time was HK\$3.280.

90.5. At 11:35:51, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.200 for the Guosen Account.

90.6. At 11:35:51, the order was executed against various orders to purchase at prices between HK\$3.220 to HK\$3.270 in the market to the extent of 100,000 shares.

90.7. At 11:35:58, Mr Iu placed an order to sell up to 300,000 shares for at least HK\$3.200 for the Guosen Account.

90.8. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Henik at 9:57:20;

- (ii) An order to purchase up to 180,000 shares for up to HK\$3.200 placed through CITIC Securities Brokerage (Hong Kong) Limited at 10:34:20;
- (iii) An order to purchase up to 5,000 shares for up to HK\$3.200 placed through HSBC at 10:44:17;
- (iv) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through BOCI at 11:03:22;
- (v) The order mentioned in paragraph 90.1 above to the extent of 95,000 shares.

90.9. At 11:35:58, the order to sell mentioned in paragraph 90.7 above was executed against the orders to purchase mentioned in paragraph 90.8 above.

90.10. At 11:36:05, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$3.200 for the Guosen Account.

90.11. At 11:36:05, the order was executed against the order to purchase mentioned in paragraph 90.1 above to the extent of 100,000 shares of the latter order.

90.12. At 11:36:23, Mr Iu placed an order to sell up to 400,000 shares for at least HK\$3.180 for the Guosen Account.

90.13. The order would be executed against the following orders in the market.
In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.210 placed through BNP at 11:36:12;
- (ii) The order mentioned in paragraph 90.1 above to the extent of the remaining 5,000 shares.

- (iii) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Morgan Stanley at 11:36:16;
- (iv) An order to purchase up to 10,000 shares for up to HK\$3.200 placed through Morgan Stanley at 11:36:19;
- (v) The order mentioned in paragraph 90.4 above.

90.14. At 11:36:23, the order to sell mentioned in paragraph 90.12 above was executed against the orders to purchase mentioned in paragraph 90.13 above to the extent of 230,000 shares.

90.15. At 11:36:23, the order to sell mentioned in paragraph 90.12 above was cancelled to the extent of the remaining 170,000 shares.

91. At 11:38:17, the Fund's Accounts (Guosen Account) sold 500,000 shares at HK\$3.120 to Ms Iu's Account:

91.1. At 11:37:31, Mr Iu placed an order to purchase up to 500,000 shares for up to HK\$3.120 for Ms Iu's Account. The nominal price of the shares at the time was HK\$3.180.

91.2. At 11:38:17, Mr Iu placed an order to sell up to 2,170,000 shares for at least HK\$3.120 for the Guosen Account.

91.3. The order would be executed against the following orders in the market. In order of priority:

- (i) An order to purchase up to 5,000 shares for up to HK\$3.180 placed through Morgan Stanley at 11:38:09;
- (ii) An order to purchase up to 5,000 shares for up to HK\$3.180 placed through Merrill Lynch at 11:38:09;

- (iii) An order to purchase up to 15,000 shares for up to HK\$3.170 placed through HSBC at 11:37:12;
- (iv) An order to purchase up to 5,000 shares for up to HK\$3.160 placed through BNP at 11:36:29;
- (v) An order to purchase up to 10,000 shares for up to HK\$3.150 placed through BOCI at 10:04:13;
- (vi) An order to purchase up to 10,000 shares for up to HK\$3.150 placed through Po Sang at 10:27:45;
- (vii) An order to purchase up to 10,000 shares for up to HK\$3.140 placed through Morgan Stanley at 9:38:23;
- (viii) An order to purchase up to 5,000 shares for up to HK\$3.130 placed through Morgan Stanley at 11:37:35;
- (ix) An order to purchase up to 15,000 shares for up to HK\$3.130 placed through Core Pacific at 11:37:58;
- (x) An order to purchase up to 5,000 shares for up to HK\$3.130 placed through Morgan Stanley at 11:38:05;
- (xi) An order to purchase up to 10,000 shares for up to HK\$3.130 placed through Morgan Stanley at 11:38:07;
- (xii) An order to purchase up to 5,000 shares for up to HK\$3.130 placed through Morgan Stanley at 11:38:13;
- (xiii) An order to purchase up to 20,000 shares for up to HK\$3.120 placed through BOCI at 11:11:31;
- (xiv) An order to purchase up to 5,000 shares for up to HK\$3.120 placed through Morgan Stanley at 11:36:28;

(xv) An order to purchase up to 5,000 shares for up to HK\$3.120 placed through South China at 11:36:28;

(xvi) The order mentioned in paragraph 91.1 above.

91.4. At 11:38:17, the order to sell mentioned in paragraph 91.2 above was executed against the orders to purchase mentioned in paragraph 91.3 above to the extent of 630,000 shares.

91.5. At 11:38:17, the order to sell mentioned in paragraph 91.2 above was cancelled to the extent of the remaining 1,540,000 shares.

Annex 2

Mr Iu's Trading of YBD Shares

References to "shares" herein are to the listed shares in Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (stock code: 8050).

27 August 2014

1. At 14:01:14, the Fund's Accounts (Morgan Stanley Account) purchased 34,000 shares at HK\$7.000 from Ms Iu's Account:
 - 1.1. At 13:59:47, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$7.000 for the Morgan Stanley Account. The nominal price was HK\$7.000 at the time.
 - 1.2. At 13:59:47, the order mentioned in paragraph 1.1 above was executed against various orders to sell shares for at least HK\$7.000 in the market to the extent of 16,000 shares.
 - 1.3. At 14:01:14, Mr Iu placed an order to sell up to 40,000 shares for at least HK\$7.000 for Ms Iu's Account.
 - 1.4. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 2,000 shares for up to HK\$7.010 placed through Morgan Stanley Hong Kong Securities Limited ("**Morgan Stanley**") at 13:59:50;
 - (ii) An order to purchase up to 2,000 shares for up to HK\$7.010 placed through Morgan Stanley at 14:00:08;
 - (iii) An order to purchase up to 2,000 shares for up to HK\$7.010 placed through Morgan Stanley at 14:00:09;
 - (iv) The order to purchase mentioned in paragraph 1.1 above to the extent of the remaining 34,000 shares.

- 1.5. At 14:01:14, the order to sell mentioned in paragraph 1.3 above was executed against the orders to purchase mentioned in paragraph 1.4(iv) above.
2. Between 14:53:23 and 14:55:34, the Fund's Accounts (Morgan Stanley Account) sold 42,000 shares at HK\$7.100 to Ms Iu's Account:
 - 2.1. At 14:53:17, Mr Iu placed an order to purchase up to 42,000 shares for up to HK\$7.100 for Ms Iu's Account. The nominal price of the shares was HK\$7.100 at the time.
 - 2.2. At 14:53:23, Mr Iu placed an order to sell up to 46,000 shares for at least HK\$7.080 for the Morgan Stanley Account.
 - 2.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 4,000 shares for up to HK\$7.120 placed through Merrill Lynch Far East Limited ("**Merrill Lynch**") at 14:53:20;
 - (ii) An order to purchase up to 4,000 shares for up to HK\$7.110 placed through Barclays Capital Asia Limited ("**Barclays**") at 14:53:20;
 - (iii) The order mentioned in paragraph 2.1 above to the extent of 38,000 shares.
 - 2.4. At 14:53:23, the order to sell mentioned in paragraph 2.2 above was executed against the orders to purchase mentioned in paragraph 2.3 above.
 - 2.5. At 14:55:34, Mr Iu placed an order to sell up to 12,000 shares for at least HK\$7.100 for the Morgan Stanley Account.

- 2.6. The order would be executed against the following orders in the market.
In order of priority:
- (i) An order to purchase up to 2,000 shares for up to HK\$7.120 placed through Quam Securities Company Limited at 14:54:02;
 - (ii) An order to purchase up to 6,000 shares for up to HK\$7.110 placed through Merrill Lynch at 14:53:46;
 - (iii) The order mentioned in paragraph 2.1 above to the extent of the remaining 4,000 shares.
- 2.7. At 14:55:34, the order to sell mentioned in paragraph 2.5 above was executed against the orders to purchase mentioned in paragraph 2.6 above.
3. At 15:23:18, the Fund's Accounts (Morgan Stanley Account) purchased 50,000 shares at HK\$7.190 from Ms Iu's Account:
- 3.1. At 15:22:08, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$7.190 for Ms Iu's Account. The nominal price of the shares was HK\$7.120 at the time.
 - 3.2. At 15:23:18, Mr Iu placed an order to purchase up to 58,000 shares for up to HK\$7.190 for the Morgan Stanley Account.
 - 3.3. The order would be executed against the following orders in the market.
In order of priority:
 - (i) An order to sell up to 10,000 shares for at least HK\$7.150 placed through BOCI Securities Limited ("BOCI") at 15:16:30 to the extent of 2,000 shares;
 - (ii) An order to sell up to 4,000 shares for at least HK\$7.180 placed through Merrill Lynch at 15:22:38;

- (iii) An order to sell up to 2,000 shares for at least HK\$7.190 placed through Fulbright Securities Limited (“**Fulbright**”) at 15:06:56;
 - (iv) The order mentioned in paragraph 3.1 above.
- 3.4. At 15:23:18, the order to purchase mentioned in paragraph 3.2 above was executed against the orders to sell mentioned in paragraph 3.3 above.
- 4. At 15:25:55, the Fund’s Accounts (Morgan Stanley Account) purchased 42,000 shares at HK\$7.210 from Ms Iu’s Account:
 - 4.1. At 15:25:19, Mr Iu placed an order to sell up to 50,000 shares for at least HK\$7.210 for Ms Iu’s Account. The nominal price of the shares was HK\$7.200 at the time.
 - 4.2. At 15:25:55, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$7.210 for the Morgan Stanley Account.
 - 4.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 4,000 shares for at least HK\$7.200 placed through Merrill Lynch at 15:23:50;
 - (ii) An order to sell up to 2,000 shares for at least HK\$7.200 placed through Barclays at 15:25:28;
 - (iii) An order to sell up to 20,000 shares for at least HK\$7.210 placed through HSBC Securities Brokers (Asia) Limited (“**HSBC**”) at 14:43:39 to the extent of 2,000 shares;
 - (iv) The order mentioned in paragraph 4.1 above to the extent of 42,000 shares.
 - 4.4. At 15:25:55, the order to purchase mentioned in paragraph 4.2 above was executed against the orders to sell mentioned in paragraph 4.3 above.

- 4.5. The order to sell mentioned in paragraph 4.1 above to the extent of the remaining 8,000 shares was unexecuted and cancelled automatically at the close of the market.
5. At 15:29:34, the Fund's Accounts (Morgan Stanley Account) purchased 100,000 shares at HK\$7.190 from Ms Iu's Account:
 - 5.1. At 15:28:44, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$7.190 for Ms Iu's Account. The nominal price of the shares was HK\$7.130 at the time.
 - 5.2. At 15:29:01, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$7.130 for the Morgan Stanley Account. At 15:29:12, the order was cancelled.
 - 5.3. At 15:29:34, Mr Iu placed an order to purchase up to 100,000 shares for up to HK\$7.190 for the Morgan Stanley Account.
 - 5.4. At 15:29:34, the order to purchase mentioned in paragraph 5.3 above was executed against the order to sell mentioned in paragraph 5.1 above.
6. At 15:31:10, the Fund's Accounts (Morgan Stanley Account) purchased 142,000 shares at HK\$7.190 from Ms Iu's Account:
 - 6.1. At 15:30:51, Mr Iu placed an order to sell up to 142,000 shares for at least HK\$7.190 for Ms Iu's Account. The nominal price of the shares was HK\$7.190 at the time.
 - 6.2. At 15:31:10, Mr Iu placed an order to purchase up to 150,000 shares for up to HK\$7.190 for the Morgan Stanley Account.
 - 6.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to sell up to 2,000 shares for at least HK\$7.180 placed through Merrill Lynch at 15:31:07;

- (ii) An order to sell up to 2,000 shares for at least HK\$7.190 placed through HSBC at 15:30:05;
 - (iii) An order to sell up to 2,000 shares for at least HK\$7.190 placed through Sun Hung Kai Investment Services Limited (“SHK”) at 15:30:30;
 - (iv) The order mentioned in paragraph 6.1 above.
- 6.4. At 15:31:10, the order to purchase mentioned in paragraph 6.2 above was executed against the orders to sell mentioned in paragraph 6.3 above to the extent of 148,000 shares.
- 6.5. At 15:31:10, the order to purchase mentioned in paragraph 6.2 above was executed against an order to sell up to 2,000 shares for at least HK\$7.190 placed through Goldman Sachs (Asia) Securities Limited at 15:31:10 to the extent of the remaining 2,000 shares.

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7. Between 15:33:12 and 15:34:23, the Fund’s Accounts (Morgan Stanley Account) sold 50,000 shares at HK\$6.250 to Ms Iu’s Account:
- 7.1. At 15:21:34, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$6.250 with Ms Iu’s Account. The nominal price of the shares was HK\$6.310 at the time.
 - 7.2. At 15:25:11, Mr Iu placed an order to sell up to 8,000 shares for at least HK\$6.340 with the Morgan Stanley Account.
 - 7.3. At 15:25:11, the order was executed against various orders to purchase shares at the maximum prices of between HK\$6.350 and HK\$6.360 in the market to the extent of 6,000 shares. The order to sell mentioned in paragraph 7.2 above to the extent of the remaining 2,000 shares was then cancelled.

- 7.4. At 15:26:24, Mr Iu placed an order to sell up to 20,000 shares for at least HK\$6.320 for the Morgan Stanley Account.
- 7.5. At 15:26:24, the order was executed against various orders to purchase shares at the maximum prices of between HK\$6.300 and HK\$6.340 in the market to the extent of 10,000 shares. The order to the extent of the remaining 10,000 shares was then cancelled.
- 7.6. At 15:32:05, Mr Iu placed an order to sell up to 22,000 shares for at least HK\$6.290 for the Morgan Stanley Account.
- 7.7. At 15:32:05, the order was executed against various orders to purchase shares at the maximum prices of between HK\$6.300 and HK\$6.310 in the market to the full extent of 22,000 shares.
- 7.8. At 15:33:12, Mr Iu placed an order to sell up to 72,000 shares for at least HK\$6.250 for the Morgan Stanley Account.
- 7.9. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to purchase up to 2,000 shares for up to HK\$6.260 placed through SHK at 10:35:51;
 - (ii) An order to purchase up to 2,000 shares for up to HK\$6.260 placed through Merrill Lynch at 15:33:08;
 - (iii) An order to purchase up to 20,000 shares for up to HK\$6.250 placed through HSBC at 10:34:02;
 - (iv) The order mentioned in paragraph 7.1 above to the extent of 48,000 shares.

- 7.10. At 15:33:12, the order to sell mentioned in paragraph 7.8 above was executed against the orders to purchase mentioned in paragraph 7.9 above.
- 7.11. At 15:34:23, Mr Iu placed an order to sell up to 100,000 shares for at least HK\$6.210 for the Morgan Stanley Account.
- 7.12. The order would be executed against the following orders in the market. In order of priority:
- (i) The order mentioned in paragraph 7.1 above to the extent of the remaining 2,000 shares;
 - (ii) An order to purchase up to 2,000 shares for up to HK\$6.220 placed through Merrill Lynch at 15:34:06;
 - (iii) An order to purchase up to 6,000 shares for up to HK\$6.210 placed through Guosen Securities (Hong Kong) Brokerage Company, Limited at 11:29:43;
 - (iv) An order to purchase up to 4,000 shares for up to HK\$6.210 placed through Morgan Stanley Hong Kong Securities Limited at 15:32:42.
- 7.13. At 15:34:23, the order to sell mentioned in paragraph 7.11 above was executed against the orders mentioned in paragraph 7.12 above to the extent of 14,000 shares.
- 7.14. At 15:34:23, the order to sell mentioned in paragraph 7.11 above was cancelled to the extent of the remaining 86,000 shares.
8. At 15:34:23, the Fund's Accounts (Morgan Stanley Account) sold 46,000 shares to Ms Iu's Account:

- 8.1. At 15:34:01, Mr Iu placed an order to purchase up to 50,000 shares for up to HK\$6.200 for Ms Iu's Account. The nominal price of the shares was HK\$6.250 at the time.
- 8.2. At 15:34:23, Mr Iu placed an order to sell up to 86,000 shares for a minimum price of at least HK\$6.200 for the Morgan Stanley Account.
- 8.3. The order would be executed against the following orders in the market. In order of priority:
 - (i) An order to purchase up to 20,000 shares for up to HK\$6.200 placed through HSBC at 9:47:14;
 - (ii) An order to purchase up to 20,000 shares for up to HK\$6.200 placed through HSBC at 9:47:14;
 - (iii) The order mentioned in paragraph 8.1 above to the extent of 46,000 shares.
- 8.4. At 15:34:23, the order to sell mentioned in paragraph 8.2 above was executed against the orders to purchase mentioned in paragraph 8.3 above.
- 8.5. At 15:47:27, the order mentioned in paragraph 8.1 above was executed against an order to sell up to 10,000 shares for at least HK\$6.200 placed through Barclays at 15:47:27 to the extent of the remaining 4,000 shares.

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9. At 9:32:47, the Fund's Accounts (UBS Account) purchased 102,000 shares at HK\$6.300 from Ms Iu's Account:
 - 9.1. At 9:31:35, Mr Iu placed an order to sell up to 102,000 shares for at least HK\$6.300 for Ms Iu's Account. The nominal price of the shares was HK\$6.010 at the time.

- 9.2. At 9:32:43, Mr Iu placed an order to purchase up to 10,000 shares for up to HK\$6.200 for the UBS Account.
- 9.3. At 9:32:43, the order was executed against an order to sell up to 10,000 shares for at least HK\$6.200 placed through BOCI at 9:30:23.
- 9.4. At 9:32:47, Mr Iu placed an order to purchase up to 104,000 shares for up to HK\$6.300 for the UBS Account.
- 9.5. The order would be executed against the following orders in the market. In order of priority:
- (i) An order to sell up to 2,000 shares for at least HK\$6.260 placed through CITIC Securities Brokerage (Hong Kong) Limited at 9:30:00;
 - (ii) The order mentioned in paragraph 9.1 above.
- 9.6. At 9:32:47, the order to purchase mentioned in paragraph 9.4 above was executed against the orders to sell mentioned in paragraph 9.5 above.

Annexure E

MARKET MISCONDUCT TRIBUNAL

In the matter of the listed securities of: (1) China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (Stock Code: 8156); and (2) Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (Stock Code: 8050).

Orders Jointly Proposed by the SFC and the Specified Person

WHEREAS by a written notice dated 5 August 2022 (the “**Notice**”) the Securities and Futures Commission (the “**SFC**”) instituted proceedings under section 252(2) of and Schedule 9 to the Securities and Futures Ordinance (Cap. 571) (the “**SFO**”) and require the Market Misconduct Tribunal (the “**Tribunal**”) to enquire into and determine:

- (1) Whether any market misconduct within the meaning of section 274 of the SFO has taken place;
- (2) The identity of any person who has engaged in the market misconduct found to have been perpetrated; and
- (3) The amounts of any profit gained and/or loss avoided, if any, as a result of the market misconduct found to have been perpetrated

AND WHEREAS the SFC has specified Mr Jonathan Dominic Wai Ching Iu (the “**Specified Person**”) in the Notice

UPON reading the Statement of Agreed and Admitted Facts dated 26 April 2023 jointly filed by the SFC and the Specified Person with the Tribunal

AND UPON hearing the Presenting Officer appointed by the SFC and Senior Counsel for the Specified Person

AND UPON the Tribunal having come to the finding on [*] May 2023 that the Specified Person engaged in market misconduct, namely false trading contrary to section 274 of the SFO

IT IS ORDERED that:

1. Pursuant to section 257(1)(a) of the SFO, for a period of 48 months, the Specified Person shall not, without the leave of the Court of First Instance:
 - (a) Be or continue to be a director, liquidator, or receiver or manager of the property or business, of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates; or
 - (b) In any way, whether directly or indirectly, be concerned or take part in the management of any listed or unlisted corporation in Hong Kong including Tarascon Capital Management (Hong Kong) Limited or any of its subsidiaries and affiliates.
2. Pursuant to section 257(1)(b) of the SFO, the Specified Person shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of otherwise deal in any securities, futures contract or leverage foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for a period of 48 months.

3. Pursuant to section 257(1)(c) of the SFO, the Specified Person shall not again perpetrate any conduct which constitutes the market misconduct of:
 - (a) Insider dealing under section 270 of the SFO;
 - (b) False trading under section 274 of the SFO;
 - (c) Price rigging under section 275 of the SFO;
 - (d) Disclosure of information about prohibited transactions under section 276 of the SFO;
 - (e) Disclosure of false or misleading information inducing transactions under section 277 of the SFO; and
 - (f) Stock market manipulation under section 278 of the SFO.
4. Pursuant to section 257(1)(e) of the SFO, the Specified Person shall pay to the Government costs and expenses reasonably incurred by the Government in relation or incidental to these proceedings, to be taxed if not agreed.
5. Pursuant to section 257(1)(f)(i) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred by the SFC in relation or incidental to these proceedings, to be taxed if not agreed, with a certificate for two counsel.
6. Pursuant to section 257(1)(f)(ii) of the SFO, the Specified Person shall pay SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out before these proceedings were instituted, in the agreed sum of HK\$830,898.

7. Pursuant to section 257(1)(f)(iii) of the SFO, the Specified Person shall pay to the SFC costs and expenses reasonably incurred in relation or incidental to the investigation carried out for the purposes of these proceedings, in the agreed sum of HK\$3,100.
8. Pursuant to section 264(1) of the SFO, notice be given to the Registrar of the High Court for this Order to be registered in the Court of First Instance.
9. Pursuant to section 264(2) of the SFO, this Order be filed with the Registrar of the Companies as soon as reasonably practicable.

Dated the 26th day of April 2023.

Annexure F

**The Market Misconduct Tribunal
In the Matter of the Listed Securities of
China Vanguard Group Limited, now known as Sinopharm Tech Holdings
Limited (stock code 8156) and Yunbo Digital Synergy Group Limited,
now known as Quantum Thinking Limited (stock code 8050)**

Ruling on the Interpretation of Section 257(1)(d) of the SFO

Introduction

1. On 5 August 2022 the Securities and Futures Commission (“the SFC”) filed a Notice with the Market Misconduct Tribunal (“the MMT” or “the Tribunal”) pursuant to section 252(2) and Schedule 9 of the Securities and Futures Ordinance (“the SFO”). In this Notice the SFC alleged that Mr Jonathan Dominic Wai Ching Iu had, between 1 August 2014 and 30 September 2014, engaged in market misconduct, in the form of false trading within the meaning of section 274 of the SFO, in relation to the shares of China Vanguard Group Limited, now known as Sinopharm Tech Holdings Limited (Stock Code 8156) (“CVG”) and in relation to the shares of Yunbo Digital Synergy Group Limited, now known as Quantum Thinking Limited (Stock Code 8050) (“YBD”).

2. The SFC’s Notice went on to state that proceedings were being instituted before the Tribunal for it to determine the matters set out in section 252(3) of the SFO, namely:

- (i) whether market misconduct within the meaning of section 274 of the SFO had taken place;
- (ii) if so, the identity of any person who has engaged in the market

misconduct; and

- (iii) the amount of any profit gained or loss avoided as a result of the market misconduct.

3. The false trading was done through trading accounts operated by Mr Iu's mother, to which Mr Iu had authorised internet access, and by Tarascon Capital Management (Hong Kong) Limited ("Tarascon"). Mr Iu was a director and the chief investment officer of Tarascon and owned 80% of its shares. Tarascon managed a hedge fund for which Mr Iu made investment decisions. As a result of Mr Iu's false trading the hedge fund suffered a loss of approximately HK\$5.35 million and Ms Iu's account enjoyed a profit of HK\$5,616,040.

4. At the second preliminary conference of this matter, held on 24 March 2023, Mr Iu was represented by Mr Edwin Choy SC. Mr Choy informed the Tribunal that Mr Iu would not contest liability and it was anticipated that a set of admitted facts would ultimately be placed before the Tribunal.

5. Subsequently a Statement of Agreed and Admitted Facts ("the SoAAF") signed by both the SFC and Mr Iu's legal representatives was filed with the Tribunal. This document contained detailed admissions in proof of the allegations in the SFC's Notice. However, nothing was said in the SoAAF revealing what had happened to the monies in Ms Iu's account that were the profits from the false trading and nothing was said about Mr Iu's motivation for his illegal conduct and specifically who it was that he was seeking to benefit by it.

6. Also in the bundle of documents filed with the Tribunal was a document entitled “Orders Jointly Proposed by the SFC and the Specified Person”.¹ This document made no mention of an order under section 257(1)(d) of the SFO. Section 257(1)(d) of the SFO empowers the Tribunal to order any person it identifies as having engaged in market misconduct to “pay to the Government an amount not exceeding the amount of any profit gained or loss avoided by the person as a result of the market misconduct in question”. The order that the subsection empowers the Tribunal to make has at times been referred to as a disgorgement order but its purpose is simply to prevent the identified person from profiting from his market misconduct. If no order is made under this section the consequence would be that no action was being taken by the Tribunal in respect of the profit of HK\$5,616,040 that was gained from the market misconduct.

A Concern Raised by the Tribunal

7. The Tribunal was concerned by two matters arising from the two documents filed by the parties. In respect of the SoAAF the Tribunal was troubled by the absence of any mention of Mr Iu’s motivation for the false trading and of the disbursement and ultimate location of the profits gained from it. In respect of the proposed orders, the Tribunal noted the absence of an order under section 257(1)(d) of the SFO in respect of the profit that was gained from the false trading.

8. These concerns prompted the Chairman to write to the parties on

¹ The “Specified Person” is Mr Iu as he is the person that the SFC specifies in its Notice as having committed market misconduct. If this person is determined by the Tribunal to have engaged in market misconduct then he, arguably, becomes the “identified person” because, in accordance with its duty under section 252(3)(b) of the SFO, the Tribunal has determined the identity of the person who has engaged in market misconduct.

28 April 2023. In that letter the Chairman invited the parties to indicate firstly what their positions were in respect of Mr Iu's motivation as that was relevant to the Tribunal's assessment of his culpability. Secondly, the Chairman enquired what had happened to the profit gained and why no order under section 257(1)(d) of the SFO was being sought in respect of it.

9. Anticipating that the parties' answers to the Tribunal's second question might be that section 257(1)(d) did not apply to a profit that is gained by another and only applied to a profit gained by the identified person, the Chairman invited submissions on the correct interpretation of this statutory provision.

10. In its written submission to the Tribunal the SFC said of Mr Iu's motive:

"The materials available to the SFC do not directly show what Mr Iu's motive was. However, given that his false trading would naturally result and has in fact resulted in substantial gains to his mother, i.e. Ms Iu's Account, it is probable that his motive was to benefit his mother."

11. It is, perhaps, stating the obvious in asserting that Mr Iu's motive was to gain a profit, but for whom he was seeking to gain a profit is less obvious. Was he being a devoted son seeking to confer a financial windfall, albeit an illicit one, on his mother or was he simply abusing his mother's generosity by making use of her account so that he could distance himself from his wrongdoing and still keep for himself the proceeds of it? After all, it is not unusual for those engaged in unlawful conduct to make use of third parties and their accounts in order to conceal their own involvement in that unlawful conduct.

12. It was the Tribunal's view that these questions needed to be addressed as the answers to them would not only be highly relevant to the Tribunal's assessment of Mr Iu's culpability but could also be relevant to the question of whether an order under section 257(1)(d) can be made by the Tribunal in respect of the profit gained from the market misconduct.

13. The SFC went on to explain in its submission that it had "attempted fund tracing to identify the source of funds for the relevant trading in Ms Iu's account and any possibility of the proceeds or any part thereof flowing to Mr Iu". However, its efforts in this regard did not reveal "the eventual destination of the proceeds or suffice to establish that Mr Iu has any beneficial interest in the shares and/or the proceeds in Ms Iu's Account". In these circumstances it was the SFC's view that Mr Iu "cannot be ordered to disgorge the profits apparently gained by Ms Iu simply because of their family relationship".

14. In respect of Mr Iu's mother, the SFC expressed its position as being:

- (1) because the false trading benefited the mother, Mr Iu's motive "was probably to benefit his mother"; but
- (2) an order of disgorgement cannot be made against Ms Iu as she "has not been identified as having engaged in any market misconduct".

15. The legal representatives for Mr Iu agreed with the SFC's response to the Tribunal's questions and asserted that "there is insufficient basis in law for an order of disgorgement".

16. In response to these submissions, on 4 May 2023, the Chairman again wrote to the parties noting the interpretation of section 257(1)(d) of the SFO that underlay their position and noting that the section says nothing about who the person committing the market misconduct gains the profit for and does not require that he enjoys the benefit of the profit. The Chairman directed that more detailed written submissions in respect of the construction of section 257(1)(d) be filed with the Tribunal by 8 May 2023.

17. In its further written submission in response to this direction the SFC argued that the legislative policy underlying the section is that an identified person should not be allowed to benefit from his market misconduct, and that a natural reading of the language of the section points to it as empowering the Tribunal to make only a disgorgement order. Furthermore, the SFC claimed, this is how the section has been regarded in the case law dealing with it and with its predecessor provision in section 23 of the Securities (Insider Dealing) Ordinance (Cap 395) (“SIDO”).

18. Having labelled the section a disgorgement order, the SFC then argued that such an order cannot be made against a person other than a person identified by the Tribunal as having engaged in market misconduct and only then when the profit from the market misconduct is gained for the benefit of that identified person. The SFC interpreted section 257(1)(d) “as applying only to the profit/loss gained/avoided by the person who has engaged in market misconduct to himself. This is consistent with the very concept of disgorgement”. Underlying the SFC argument is the assumption that the section is properly to be regarded as a disgorgement order and that disgorgement, as a legal concept,

requires that the person against whom the order is to be made, has an illicit profit, gain or benefit to disgorge and this, therefore, requires that he be shown to have taken to himself this illicit profit, gain or benefit before a disgorgement order can be made against him.

19. The SFC concluded its submission by stating that “the present matter is not a suitable case for the MMT to exercise its power under SFO s.257(1)(d)”.

20. In the course of its written submissions the SFC referred to a statement made by another Tribunal in respect of the SIDO power. This statement extended the disgorgement power to situations where the identified person has exercised control over the disposition of the illicitly gained profit to the benefit of another. This extension of the power to order disgorgement when the profit flows to another was articulated by the Insider Dealing Tribunal in its report in relation to the securities of Firststone International Holdings Limited dated 8 July 2004 (“the Firststone Report”). There, the Tribunal said that the identified person need not be shown to have himself enjoyed the profit that was gained by his market misconduct but the profit must effectively have been his to use and dispose of as he wished. This would suggest that the identified person must be able to exercise control over its disposition. Thus, if an identified person possesses the power to control what happens to the illicitly gained profit and exercises this power to transfer it to another then, under this principle, a disgorgement order can be made against him.

21. On 10 May 2023, at the hearing set aside for the substantive disposition of this matter, the Tribunal ventilated its concern at the common position of the

parties that, in the particular circumstances of this case, it was not able to make a section 257(1)(d) order in respect of the profit gained. In so far as resolving this concern would involve the Tribunal having to interpret the meaning of section 257(1)(d), the Tribunal made clear to the parties that it would require detailed submissions on this important legal issue. In particular it would require the parties to state their position in respect of the applicability of the law as articulated by the Tribunal in the Firststone Report in respect of section 23 of SIDO, to section 257(1)(d) of the SFO.

22. After the hearing of 10 May 2023 the Tribunal received a letter from Jack Fong & Co, solicitors for Mr Iu, dated 15 May 2023. In this letter this firm stated that Mr Iu had terminated their retainer and the retainer of the two counsel and that, accordingly, they had “no authority and instructions to act for the abovenamed Specified Person in the above proceedings any further”.

23. In subsequent correspondence by the Tribunal with the SFC it was agreed that the SFC would carry out further investigation as requested by the Tribunal and in due course update the Tribunal on the results of its efforts. In its letter of 12 June 2023 the Tribunal required the SFC to provide a progress report to the Tribunal by letter no later than 15 September 2023.

24. In September 2023, after receiving the SFC’s report, the Chairman directed that a hearing take place for the purpose of receiving oral submissions on the interpretation of section 257(1)(d) of the SFO. This being an exercise of

statutory interpretation it is a question of law which the SFO requires the Chairman alone to determine.²

25. As Mr Iu was legally unrepresented I wrote to him informing him of my directions and invited him to participate in this hearing, which had been set down for 17 November 2023, either by engaging legal representatives or by appearing in person or by video conferencing, or alternately to file with the Tribunal any written submissions he may wish to make on this issue. Mr Iu did not appear before the Tribunal either personally or by legal representatives and no written submissions were received from him in respect of this legal issue. I am satisfied that Mr Iu has been given a reasonable opportunity to be heard and that the right afforded him by section 307K of the SFO has been met.

26. Subsequently, further written submissions were received from the SFC. In these submissions the SFC adhered to the position it had adopted in earlier written submissions and at the hearing on 10 May 2023. In this submission, Mr Li for the SFC argued:

- “2. As noted in the Response, a disgorgement order under section 257(1)(d) of the SFO is confined to the profit gained or loss avoided by the specified person who had engaged in market misconduct. The narrow scope was a deliberate legislative choice. This is recognised by the CFA in *Koon Wing Yee* [SFC#21] and has been consistently applied in the case law: ¶¶8-20.
3. The logic is that “disgorgement” by a wrongdoer is disgorgement of his gains. To order him to pay something other than his own gains would be to impose

² See section 24(c) of Schedule 9 of the SFO.

a penalty. Different jurisdictions have made different choices about whether to allow such a penalty.”

27. Mr Li referred to the position in the English regime which he distinguished from the position in section 257 and of which he concluded:

“7. The SFO and case authorities in Hong Kong have made a different choice and do not allow the imposition of a penalty.”

28. Mr Li then referred to the statement in the Firststone Report and submitted that it “accords with the logic and the rule that disgorgement is of the specified person’s own benefits”.

29. At the hearing on 17 November 2023 Mr Li developed his written submissions, maintaining the stance that an order could not be made by the Market Misconduct Tribunal under section 257(1)(d) of the SFO unless it could be shown that the Specified Person personally enjoyed the profit gained from his market misconduct or was able to, and did in fact, exercise control over its disposition to another. In doing so Mr Li relied heavily on the judgment of the Court of Final Appeal in *Insider Dealing Tribunal v Shek Mei Ling*³ which he submitted was binding authority on me and from which it was clear that the Court of Final Appeal was of the view, when discussing section 23(1)(c) of SIDO, that extending the provision to a person who did not receive the money would transform it into a criminal penalty. This was especially so given that any financial order imposed under section 23(1)(c) would put the person substantially out of pocket. Mr Li

³ (1999) 2 HKCFAR 205.

also presented a new argument based upon the Chinese language version of the section. He developed this argument in a written submission that he subsequently filed with the Tribunal.

Section 257(1)(d) of the SFO

30. Section 257(1)(d) of the SFO provides:

“257. Orders, etc. of Tribunal

(1) Subject to subsection (3), the Tribunal may at the conclusion of any proceedings instituted under section 252 make one or more of the following orders in respect of a person identified as having engaged in market misconduct pursuant to section 252(3)(b)–

...

(d) an order that the person pay to the Government an amount not exceeding the amount of **any profit gained or loss avoided by the person as a result of the market misconduct in question;**”

31. The key words of subsection (d) that fall to be interpreted are “any profit gained or loss avoided by the person as a result of the market misconduct in question”. However, before embarking on an interpretation process in regard to these words it is helpful to have some knowledge of the legislative history of the power to make such an order.

The Predecessor of Section 257(1)(d)

32. The predecessor provision of section 257(1)(d) of the SFO was section 23(1)(b) of SIDO. However, significantly, section 23(1), unlike section 257(1), contained two provisions dealing with profits gained from insider dealing. They were section 23(1)(b) and (c) and they provided as follows:

“23 Orders etc. of Tribunal

(1) At the conclusion of an inquiry or as soon as is reasonably practicable thereafter, where a person has been identified in a determination under section 16(3) or in a written report prepared under section 22(1) as an insider dealer, the Tribunal may in respect of such person make any or all of the following orders— (*Amended 61 of 1995 s. 8*)

...

(b) an order that that person pay to the Government an amount not exceeding the amount of any profit gained or loss avoided by that person as a result of the insider dealing;

(c) an order imposing on that person a penalty of an amount not exceeding “300%” 3 times the amount of any profit gained or loss avoided by any person as a result of the insider dealing.”

33. The first occasion that these two financial orders came under appellate consideration was in *Insider Dealing Tribunal v Shek Mei Ling*⁴. In this case the judgement of the Court of Final Appeal was given by Lord Nicholls of Birkenhead

⁴ (1999) 2 HKCFAR 205.

NPJ and at pages 209I to 210B he said:

“The basic scheme of the Ordinance is clear enough. The purpose of an order under s.23(1)(b) is to strip from the insider dealer the amount of the profit gained by him as a result of the insider dealing. He is not to be allowed to retain his ill-gotten gains. An order under s.23(1)(c) goes further than this. Although not so described, an order under s.23(1)(c) is comparable to a fine.

Its purpose is to deter insider dealing, and it seeks to do so by leaving a person who engages in such conduct substantially out of pocket. The amount of the penalty can be up to treble the amount, not of the benefit gained by the insider dealer himself, but of the benefit gained by the insider dealer *and anyone else* as a result of the insider dealing. Thus, an insider dealer can be subjected to a substantial penalty order even though he himself gained no profit.”

34. What was of importance to Lord Nicholls in contrasting the two provisions was the quite different purposes that each sought to serve. Section 23(1)(b) served the purpose of preventing a wrongdoer retaining “his ill-gotten gains”. Section 23(1)(c), on the other hand, served the purpose of deterring insider dealing by means of a punitive fine which would leave the wrongdoer “substantially out of pocket”. In order to achieve this the Tribunal was entitled to impose a maximum fine up to treble the amount of the profit gained and, in doing so, to have regard to the profit gained not just by the insider dealer but by any person.

35. The next occasion that these two provisions came under consideration was by the Insider Dealing Tribunal in the Firststone Report. This Report, dated

8 July 2004, was issued by a Tribunal presided over by McMahon J as Chairman. The Tribunal interpreted these two subsections as performing quite different and separate roles. In doing so the Tribunal was influenced in its interpretation of section 23(1)(b) by the existence of section 23(1)(c). Because there existed a separate penalty provision, the Tribunal said section 23(1)(b) was not intended to be a punitive provision but was merely an unjust enrichment section. The Tribunal also noted that section 23(1)(b) referred to “that person” which was a reference to the person identified by the Tribunal as an insider dealer whereas section 23(1)(c) referred to “any profit gained or loss avoided by *any person*”. It is helpful to set out those passages from the Tribunal’s Report which reveal its reasoning:

“ In our view a person should not be ordered to “disgorge” a profit pursuant to the provisions of section 23(b) unless that person has gained that profit for himself. The purpose of section 23(b) is not to penalize an insider dealer, that is the function of section 23(c), but to take away from the person who is found to be an insider dealer any gain he made as a result of his insider dealing.

That interpretation is supported by the terms of section 23(b) which relate only to “the amount of any profit gained by that person as a result of the insider dealing” (emphasis added).

It is supported also by the contrasting reference in section 23(c) to the imposition of a penalty on the insider dealer being limited by “the amount of any profit gained by any person as a result of the insider dealing” (emphasis added).

That being so however the profits of insider dealers may be dealt with in many ways by them. They may be reinvested, used to repay a debt or otherwise dealt with so that they are not retained by that person but were nevertheless profits

“gained” by him.

The question is always one of fact. Did the insider dealer gain a profit in the sense that the monies were effectively his to use and dispose of as he wished or at his discretion? In answering that question all the circumstances of the potential gain by the insider dealer should be taken into account.”

36. Given that the existence of section 23(1)(c) of SIDO influenced the construction of section 23(1)(b), it is very important to note that a similar provision was not replicated in the powers given to the MMT and to understand why that was not done.

37. The reason it was not done can be found in the Hong Kong Government’s Consultation Document on the Securities and Futures Bill, dated April 2000 where it was said:

“A DUAL ROUTE

11.9 At present, the IDT⁵ has the power to impose pecuniary fine orders of up to three times the profit made or loss avoided. Other market misconduct (such as market manipulation) may only be dealt with through criminal prosecution.

11.10. It was initially proposed that the MMT would have the power to impose pecuniary fine orders of the same gravity as those within the jurisdiction of the IDT, and that all forms of market misconduct be decriminalised. The advantages of this model are that a civil system, where on a civil standard

⁵ The Insider Dealing Tribunal.

of proof there would be better prospects of securing a finding of market misconduct having been committed and where adequate sanctions could be imposed, would be a more effective system to reduce and minimize market misconduct. The proposal that the MMT could impose pecuniary fines of up to three times the profit made or loss avoided was seen as an effective sanction.

11.11 In the course of developing this proposal, the Government has been advised that *the jurisprudence developing before the European Court of Human Rights involving human rights protections similar to those under the Basic Law and the Hong Kong Bill of Rights Ordinance cautions that pecuniary fine orders could, in certain cases, be “criminal” for human rights purposes.* In light of such advice, the Government has decided that, while the original imperatives behind the creation of the MMT remain, *a more prudent way forward would be not to pursue the original proposal to give the MMT the power to impose pecuniary fine orders, but to build in a series of effective civil measures to protect investors.*

11.12. The decision is therefore to continue with extending the effective civil tribunal inquiry system beyond insider dealing to market manipulation and other types of market misconduct. *As the MMT will no longer impose heavy pecuniary fine orders, the range of civil sanctions available will be enriched by the addition of new powers such as imposing “cold shoulder” orders and “cease and desist” orders. These sanctions, which have been carefully considered both for compliance with human rights protection and for their credibility as sanctions, will enable the MMT to deal appropriately and flexibly with those who engage in market misconduct.”*

(Emphasis added.)

38. This legal advice proved to be sound for, on 18 March 2008, the Court of Final Appeal in its judgment in *Koon Wing Yee v Insider Dealing Tribunal*⁶, declared section 23(1)(c) to be invalid. The judgment of the Court was given by Sir Anthony Mason NPJ and before explaining why section 23(1)(c) was invalid he adverted to the changes brought about by the SFO and compared the different regimes in the two ordinances. He said:

“48. As an element in the new civil regime, the SFO set up the Market Misconduct Tribunal (the MMT) to hear cases of suspected market misconduct. *The MMT was given power to impose civil sanctions, including surrender of any profit made or increased by market misconduct, but without power to impose a fine or penalty. The decision to leave the MMT without power to impose a fine was influenced by legal advice received by the Government to the effect that the existence of such a power might lead to a breach of the BOR.*”

(Emphasis added.)

39. The declaration of invalidity was on the ground that the section was a power to impose a penalty and this resulted in the proceedings involving the determination of a criminal charge, thereby violating articles 10 and 11 of the Hong Kong Bill of Rights. The reasons why he concluded that section 23(1)(c) was a penalty provision can be found in the following passage from his judgment:

⁶ (2008) 11 HKCFAR 170.

“49. Not only does insider dealing amount to very serious misconduct, *the penalty imposed under s.23(1)(c) is comparable to a fine and its purpose is punitive and deterrent.* The penalty provision seeks to deter insider dealing by leaving a person who engages in such dealing substantially out of pocket. The Tribunal noted that when the Bill was originally presented to the Legislature, the provision which became s.23(1)(c) called what is now a penalty a “fine”. In its context, this seems to be a classic example of a distinction without a difference. Because the amount of the penalty can be up to treble the amount, not of the benefit gained by the insider dealer himself, but of the benefit gained by the insider dealer and anyone else as a result of the insider dealing, the amount of the penalty is “potentially swingeing”. An insider dealer who has made no profit himself may nevertheless be subjected to a substantial fine. That the amount of the penalty is limited by reference to the amount of profit gained does not, in my view, detract from its punitive and deterrent character and endow it with a compensatory character. *The imposition of the penalty amounts to punishment for very serious misconduct.*”

(Emphasis added.)

40. Thus, it is clear that the reason section 23(1)(c) of SIDO was not replicated in the SFO in the powers given to the Market Misconduct Tribunal was because it was anticipated that it might be regarded as being in breach of the Bill of Rights Ordinance, as indeed the Court of Final Appeal so ruled.

41. There can be no doubt that at the time the provisions of the SFO were being considered by the legislature there was a clear legislative policy to enact a

provision which would prevent persons who were identified by the Market Misconduct Tribunal as having engaged in market misconduct from profiting from their wrongdoing, and doing so by a provision which could not be regarded as a criminal penalty. **It would be at risk of being regarded as a criminal penalty if it could be said of it that its purpose is to punish the wrongdoer.** The result was section 257(1)(d).

The Issue Raised by the Present Case

42. Whenever market misconduct takes place, whatever form it may take, the motivation of those who engage in it will inevitably be to obtain an advantage not available to the market and, by doing so, to either gain a profit or avoid a loss. If it is to gain a profit then, realistically, those profits will have been disbursed or dissipated by the time the SFC comes calling. As the Tribunal said in the Firststone Report:

“... the profits of insider dealers may be dealt with in many ways by them. They may be reinvested, used to repay a debt or otherwise dealt with so that they are not retained by that person but were nevertheless profits “gained” by him.”

43. Clearly, the legislative policy behind section 257(1)(d) would be defeated if the section was construed as being just a disgorgement power that could only be deployed against profits still existing, in their original form, in the hands of the identified person. **To have any meaningful effect the Tribunal must be able to make an order against an identified person even though any gained profit is not in his possession or under his control at the time the Tribunal is making its order.** The question is whether section 257(1)(d) empowers the

Market Misconduct Tribunal to make an order in these circumstances and, if it does, what limitations, if any, constrain the Market Misconduct Tribunal in doing so.

44. In the present case, the issue before this Tribunal of the true construction of section 257(1)(d) arises because the identified person may not be able to be shown to have personally been the beneficiary of the profit gained from his market misconduct. This is because that profit was never in his possession or under his control but was deposited into the trading account of his mother and he was not authorised to transfer monies out of that account. Thus, the question arises of whether a profit that is gained by the identified person for the benefit of another who is not identified by the Tribunal as having engaged in market misconduct, can be the subject of a section 257(1)(d) order.

45. There are two issues arising in respect of section 257(1)(d). The first is the purely legal one of how subsection (1)(d) should be interpreted. Being a purely legal issue it will be a matter for the Chairman to decide and having so decided to direct the Tribunal.

46. The second issue is the factual one for the Tribunal to decide of whether, on the evidence before it, and applying the legal directions of the Chairman on the construction of section 257(1)(d), an order can be made under the subsection by the Tribunal and, if so, whether it should, in the circumstances, be made and, if so, the terms of that order. Whether this second issue will have to be addressed will depend largely upon how the first issue is resolved and the outcome of the SFC's further investigations.

Legal Principles Relating to the Interpretative Process

47. The approach to be taken to an exercise of statutory interpretation has been the subject of much discussion by our Court of Final Appeal. In *HKSAR v Cheung Kwun Yin*⁷ Li CJ had this to say:

“Approach

11. In interpreting a statute, the court’s task is to ascertain the intention of the legislature as expressed in the language of the statute. This is of course an objective exercise. The court is not engaged in an exercise of ascertaining the legislative intent on its own. As Lord Reid pointed out in *Black-Clawson International Ltd v Papierwerke Waldhof – Aschaffenburg AG* [1975] AC 591 at 613G.

“We often say that we are looking for the intention of Parliament, but that is not quite accurate. We are seeking the meaning of the words which Parliament used.”

12. The modern approach is to adopt a purposive interpretation. The statutory language is construed, having regard to its context and purpose. Words are given their natural and ordinary meaning unless the context or purpose points to a different meaning. Context and purpose are considered when interpreting the words used and not only when an ambiguity may be thought to arise. In *HKSAR v Lam Kwong Wai* (2006) 9 HKCFAR 574 at 606E, Sir Anthony Mason NPJ stated:

“The modern approach to statutory interpretation insists that context and purpose be considered in the first instance, especially in the case of general

⁷ (2009) 12 HKCFAR 568, 574 – 575.

words, and not merely at some later stage when ambiguity may be thought to arise.”

...

13. The context of a statutory provision should be taken in its widest sense and certainly includes the other provisions of the statute and the existing state of the law. ...

14. The purpose of a statutory provision may be evident from the provision itself. Where the legislation in question implements the recommendations of a report, such as a Law Reform Commission report, the report may be referred to in order to identify the purpose of the legislation. The purpose of the statutory provision may be ascertained from the Explanatory Memorandum to the bill. Similarly, a statement made by the responsible official of the Government in relation to the bill in the Legislative Council may also be used to this end.”

48. In *HKSAR v Lam Kwong Wai & Another*⁸ Sir Anthony Mason NPJ also said:

“A court may, of course, imply words into the statute, so long as the court in doing so, is giving effect to the legislative intention as ascertained on a proper application of the interpretative process. What a court cannot do is to read words into a statute in order to bring about a result which does not accord with the legislative intention properly ascertained.”

49. In *China Field Ltd v Appeal Tribunal (Buildings) (No. 2)*⁹, the Court of

⁸ (2006) 9 HKCFAR 574 at 606 G–N, [63].

⁹ (2009) 12 HKCFAR 342.

Final Appeal emphasised that a purposive approach to statutory interpretation is not a license for a court “to distort or even ignore the plain meaning of the text and construe the statute in whatever manner achieves a result which they consider desirable”.¹⁰ Lord Millett NPJ, in giving a judgment with which all the members of the Court agreed, went on to say:

“Purposive construction means only that statutory provisions are to be interpreted to give effect to the intention of the legislature, and that intention must be ascertained by a proper application of the interpretative process. This does not permit the Court to attribute to a statutory provision a meaning which the language of the statute, understood in the light of its context and the statutory purpose, is incapable of bearing: See *HKSAR v Lam Kwong Wai*.”¹¹

50. In *T v Commissioner of Police*¹² Ma CJ, in a dissenting judgment, emphasised the importance of having regard to context and purpose as the starting point in any exercise of statutory interpretation:

“The starting point in any exercise of statutory interpretation is to look at the context and purpose of the relevant provisions. ... It is context and purpose that will, in the vast majority of cases, be determinative of the meaning of the words sought to be construed, rather than attempting as a starting point to look at words in a vacuum.”

51. More recently Cheung CJ in *HKSAR v Chan Chun Kit*¹³ distilled from the case law the following summary of the legal principles:

¹⁰ Ibid, at 358G, [36].

¹¹ Ibid, at 358 H–J, [36].

¹² (2014) 17 HKCFAR 593, 604–605, [4].

¹³ (2022) 25 HKCFAR 191 at 203, [10].

“Principles of statutory interpretation

10. The rules of statutory construction are well established. Words are construed in their context and purpose. They are given their natural and ordinary meaning with context and purpose to be considered alongside the expressed wording from the start, and not merely at some later stage when an ambiguity is thought to arise. A purposive and contextual interpretation does not mean that one can disregard the actual words used in a statute. Rather, the court is to ascertain the intention of the legislature as expressed in the language of the statute. As has been repeatedly pointed out, one cannot give a provision a meaning which the language of the statute, understood in the light of its context and purpose, cannot bear.”

52. It is clear from the comments made by the Court of Final Appeal in the above cited cases that starting with context and purpose does not mean ignoring the words being construed. Because purpose and context are ultimately only “a tool or aid to assist a court in arriving at an interpretation that gives effect to the legislative intention, one must always have regard to the particular words used by the legislature in expressing its will. A court cannot attribute to a statutory provision a meaning which the language of the statute, understood in the light of its context and the statutory purpose, is incapable of bearing. For that reason, one must necessarily look to the statutory language to see what meaning or meanings it is capable of bearing”.¹⁴

¹⁴ Per Fok PJ in giving the Reasons for Judgment of the Court of Final Appeal in *HKSAR v Fugro Geotechnical Services Ltd* (2014) 17 HKCFAR 755, 765-766, [22].

The Context and Purpose of Section 257(1)(d)

53. An examination of context and purpose can be a broad ranging exercise as was explained by Cheung CJ in *Chan Chun Kit* at [11] of the judgment:

“11. Context here is to be taken in its widest sense and includes other statutory provisions and the general law. The purpose of a statutory provision may be evident from the provision itself, the recommendation of a report such as that published by the Law Reform Commission, the explanatory memorandum to the relevant bill or a statement by the responsible official of the government in relation to that bill in the Legislative Council. It may also be relevant in any given case to look at the history of the provision concerned.”

54. The starting point for an examination of context is the SFO itself. The context in which section 257(1)(d) was enacted is that there is within the SFO a dual regime for dealing with market misconduct. It can be dealt with by either a civil or criminal process. The civil process is by an inquiry by a statutory tribunal, the Market Misconduct Tribunal, created by the SFO, and the criminal process by a prosecution in the courts of Hong Kong. The market misconduct that is prohibited is the same whether, for false trading, it be defined under section 274 for the purposes of a Market Misconduct Tribunal inquiry or it be defined under section 295 in the offence creating provision.

55. When the Market Misconduct Tribunal conducts a hearing, it is a civil hearing in which it makes its findings of facts and ultimate determinations by applying the civil standard of proof and when it imposes sanctions against an identified person it does so with the primary purpose of protecting the public.

This is unlike the criminal process for the prosecution of a person who engages in market misconduct for, as with any prosecution, the guilt of the offender must be proven to the higher standard of beyond reasonable doubt and if the defendant is convicted, then the primary purpose of the criminal penalty imposed on him is punishment for his wrongdoing.

56. Consequently, when the Market Misconduct Tribunal imposes sanctions on persons it has identified as having engaged in market misconduct, the orders it makes must, consistent with the civil nature of its proceedings, have a civil character and cannot take on the character of a criminal penalty.

57. But, in order to understand why it was that the SFO came to be enacted in this form, and especially what lay behind section 257(1)(d) being enacted in the way it was, it is necessary to delve deeper into the legislative history. This is all part of the context that goes to providing guidance on the legislative purpose. In this respect we are fortunate to have the benefit of the judgment of Sir Anthony Mason NPJ in *Koon Wing Yee* where he traces the legislative history of section 257(1)(d) in the course of his examination of section 23(1)(c) of SIDO. From his judgment we know what led to his decision that the SIDO provision was a criminal penalty and why it was that it was not replicated in the SFO. Thus, one of the lessons that we take from the Court of Final Appeal's judgment in *Koon Wing Yee* is that section 257(1)(d) must not be interpreted in a way that cloaks it with the character of a criminal penalty; firstly, because that could render it unconstitutional and, secondly, because it was never intended that the Market Misconduct Tribunal should have the power to "impose heavy pecuniary fine

orders”.¹⁵

58. Of course, this is not the only lesson to be taken from the SIDO history and the Court of Final Appeal’s judgment on that legislation, but it is the primary one. As will become apparent later in this ruling, another important part of the context on which Mr Li relies are the different words employed in the Chinese text of the SIDO and SFO provisions.

59. The purpose of the legislature in enacting section 257(1)(d) was to give a statutory tribunal, created by the SFO, power to make an order against a person that would implement the social policy that no person who engages in illegal conduct should be allowed to profit from that conduct and to do so by ordering a person whom it had identified as having engaged in market misconduct, to pay an amount of money no greater than the amount of any profit gained or loss avoided as a result of that misconduct.

60. The legislative purpose in enacting section 257(1)(d) was the subject of comment in *Chau Chin Hung and another v Market Misconduct Tribunal and another*¹⁶ by Hartmann and Lam JJ, sitting jointly in the Court of First Instance of the High Court, when they discussed section 257(1) of the SFO and said of section 257(1)(d):

“42. In our judgement, the intention of the legislature in providing for disgorgement orders is clear. It is to the effect that any person identified as being the perpetrator of any form of civil infraction of the market conduct provisions

¹⁵ From the Hong Kong Government’s Consultation Document on the Securities and Futures Bill, quoted at [35] of this Ruling.

¹⁶ HCAL 123/2007, 124/2007, 22/2008.

contained in the Ordinance should not be permitted – in the discretion of the Tribunal – to retain the fruits of their infraction. That, we believe, is not a punishment. It is no more than an application of the ancient principle – based on natural justice – that a wrongdoer should not be permitted to retain the proceeds of his wrongdoing. Effectively, in so far as it is possible, it seeks to restore the *status quo ante*.”

61. It is by having regard to the context in which section 257(1)(d) was enacted, the purpose underlying its enactment and the *Koon Wing Yee* and SIDO history limitation on the interpretation of the subsection, that the words “any profit gained or loss avoided by the person as a result of the market misconduct” must be interpreted.

Interpreting Section 257(1)(d)

62. The argument that there should be read into the subsection a further limitation that an order can only be made if the identified person has personally benefited from the profit is, essentially, based upon five grounds. The first ground is that when emphasis is given to, or focus placed upon, the words “by the person” which follow on immediately from the words “any profit gained or loss avoided”, the natural and ordinary, meaning of the words dictate that what is meant or, at the very least, what is clearly being implied, is that this person must have gained the profit for himself. The second ground is that the nature of the order in the subsection is that of a disgorgement order and it would be contrary to the concept of disgorgement to order a person to disgorge monies the person does not have and has never had. The third ground is that a broad interpretation of

the section that extends it to profits enjoyed by another is contrary to the law as laid down by the Court of Final Appeal. The fourth ground is that it is unfair to a person who has never had the money to be required to disgorge it, and so using the power against such a person would have the effect of employing the civil sanction as a form of punishment, thereby changing it into a penalty in the form of a criminal fine. The fifth ground is that the Chinese version of the section makes it clear that the profit being referred to is the profit the identified person gained for himself.

(i) The literal ground

63. In support of his contention that the natural meaning of the words used imply that the profit being referred to is the profit gained by the identified person for himself, Mr Li argues:

“When one speaks of some person as having gained a profit or avoided a loss, the natural meaning is that the person has gained a profit for/to himself.”

64. With respect to Mr Li this is too simplistic an approach. The natural meaning of the words has to be determined by having regard to the context in which they are used. That context is of a person engaging in unlawful conduct in the stock market of Hong Kong to generate an illicit profit. There is nothing at all unusual in that situation that the illicit profit might be generated in order to benefit, or at least share with, others. That is especially so when, as happened here, the unlawful conduct involved the use of another’s account. In the context of the SFO and its efforts to address market misconduct, and the illicit profits generated by it, I do not agree that the natural meaning of the words confines the

profit to only that amount personally enjoyed by the identified person.

65. The words of the subsection require that there be: (i) market misconduct; (ii) by an identified person; (iii) with a profit gained or a loss avoided by the person; (iv) as a result of the market misconduct. It is clear that the words “the person” can only refer to the person identified by the Tribunal under section 252(3)(b) as the person who has engaged in market misconduct. But, nowhere does the subsection expressly state that the order can only be made for the amount of the profit actually enjoyed by the identified person. In this regard it is worthy of note that the duty imposed on the Tribunal by section 252(3) of the SFO is to determine, in respect of the third element, “the amount of any profit gained or loss avoided as a result of the market misconduct”.¹⁷ This places emphasis on the link between the profit gained or loss avoided and the market misconduct rather than the person committing the market misconduct. Significantly, it does not confine the Tribunal’s determination to only the amount gained, if any, by the identified person. There would seem little point in determining the amount of the profit gained if the Tribunal was powerless to do anything about it when the profit is not in the hands of the identified person.

66. The interpretation of section 257(1)(d) requires analysis of the link between its three elemental phrases. They are:

- (i) “*any profit gained or loss avoided*;
- (ii) “*by the person*”; and

¹⁷ Section 252(3)(c) of the SFO.

(iii) “*as a result of* the market misconduct in question”.¹⁸

The key words linking each of these three phrases are “by” and “as a result of” and the question becomes what emphasis should be given to these words, or where the focus should be, when interpreting the subsection. If emphasis is given to, or focus is placed on, the word “by”, then, as Mr Li contends, the subsection arguably requires that this person also be shown to be the beneficiary of the profit gained or loss avoided. This construction would effectively imply additional words, such as “for himself”, into the subsection so that it in fact reads:

“any profit gained or loss avoided by the person *for himself* as a result of ...”

Further support for the first ground comes from the statement by the Tribunal in the Firststone Report to this effect.¹⁹

67. A second approach is to give a broad interpretation to the words “gained” and “avoided” so that a profit is gained from the market misconduct when it flows from the actions of the Specified Person irrespective of the person into whose hands it might ultimately be received. That is, a person still gains a profit from his market misconduct when he gains it for another. This interpretation gives less emphasis to the word “by” and more emphasis to the words “as a result of”. Mr Li argues that this interpretation requires that the words “whether for/to himself and or other person” be read into the subsection.

68. Mr Li then refers to a third approach where the word ‘by’ is read as relating to the market misconduct so that, “in effect, the phrase would be read as: ‘profit gained or loss avoided by the person’s market misconduct’”. This

¹⁸ Emphasis added.

¹⁹ See the quotation from the Firststone Report at [35] of this Ruling.

interpretation would only require that the market misconduct results in a profit gained or loss avoided, irrespective of who might be the beneficiary of it, and it is the occurrence of this specified result or outcome of the market misconduct that triggers the deployment of the power. Mr Li, however, submits that this is tying the word “by” to the market misconduct and such a link is harder to justify and consequently this possible interpretation should be ignored.

69. Mr Li’s position, on behalf of the SFC, is that the first interpretation is to be preferred as the correct one and cites six reasons for so saying. They are:

- “(1) It is the more natural reading.
- (2) It tallies with the understanding and judicial dicta to date that section 257(1)(d) is about “disgorgement”.
- (3) It is the reading which the CFA has given to section 23(1)(b) of the SDIO, which the legislature specifically re-enacted into section 257(1)(d) of the SFO.
- (4) In re-enacting section 23(1)(b) into section 257(1)(d), the legislature did not adopt a reference to “*any person*” in section 23(1)(c) of the SDIO. This runs against the second reading.
- (5) The second reading risks rendering section 257(1)(d) as providing a criminal penalty, which the legislature was expressly keen to avoid.
- (6) The Chinese version of section 257(1)(d) makes the first reading all the more clear. The Chinese version does not permit the second reading.”

70. In considering the competing interpretations I am conscious that I must be wary of doing what Sir Anthony Mason in *Lam Kwong Wai* said was

impermissible, namely, reading words into a statute in order to bring about a result which does not accord with the legislative intention properly ascertained.²⁰ Nor must I fall into the trap of doing what Lord Millett NPJ and Fok PJ cautioned against, namely, ignoring the plain meaning of the text and attributing to a statutory provision a meaning which the language of the statute, understood in the light of its context and statutory purpose, is incapable of bearing.²¹ However, whilst recognizing that Mr Li's first interpretation is available from the language of the subsection, I am also of the view that when that language is understood in the light of its context, especially the determination the Tribunal is required to make by section 252(3), and its statutory purpose, the second and the third interpretations are also available.

71. For reasons which I shall shortly explain, I am of the view that once regard is had to context and purpose the only one meaning that can be ascribed to the words of section 257(1)(d) is the expansive one. However, even if I am wrong in so concluding, and even if it can be said that the language of the section creates an ambiguity by allowing for these two alternative meanings, then, in determining which of the competing interpretations is the correct interpretation, regard must be had to the context and purpose of section 257(1)²². It is only by so doing that it will be possible to determine which interpretation gives effect "to the legislative intention as ascertained on a proper application of the interpretative process".²³

²⁰ See the comments of Sir Anthony Mason NPJ in *HKSAR v Lam Kwong Wai & Another* (2006) 9 HKCFAR 574, quoted at [48] of this Ruling.

²¹ See the comments of Lord Millett NPJ in *China Field Limited v Appeal Tribunal (Buildings) (No. 2)* (2009) 12 HKCFAR 342, quoted at [49] of this Ruling and the comments of Fok PJ in *HKSAR v Fugro Geotechnical Services Ltd* (2014) 17 HKCFAR 755, quoted at [52] of this Ruling.

²² See the comments of Ma CJ in *T v Commissioner of Police* (2014) 17 HKCFAR 593 that are quoted at [50] of this Ruling.

²³ Per Sir Anthony Mason NPJ in *HKSAR v Lam Kwong Wai & Another* (2006) 9 HKCFAR 574, quoted at [48] of this Ruling.

(ii) Section 257(1)(d) is a disgorgement order

72. Support for the second ground comes from comments made by courts and tribunals on the two provisions in SIDO and the fact that the section 23(1)(c) provision in SIDO was not replicated in the SFO. However, it is necessary to place these observations in context. In making these observations the courts were recognising, and emphasising, the distinction between a civil law power (the disgorgement order) and a criminal law punishment (the imposition of a fine).

73. But, what the courts were not doing was formally construing section 23(1)(b) of SIDO or section 257(1)(d) of SFO by adopting the civil law relating to unjust enrichment or the civil law principles applicable to disgorgement orders and using that body of law as the context and purpose of the section as part of an interpretative process in respect of section 257(1)(d).

74. The purpose in enacting section 257(1)(d), and the only purpose, was to implement the important social policy of not allowing a person who has engaged in illegal conduct to profit from that conduct. There was not any additional purpose of incorporating into a statutory provision the civil law of unjust enrichment or the legal principles relating to disgorgement orders.

75. Consequently, there is a fundamental objection to the use of the civil law of unjust enrichment and disgorgement orders to limit the operation of section 257(1)(d) and that is because it is contrary to the way in which an exercise of statutory interpretation is conducted. This civil law influenced approach proceeds by first making an assumption about the nature of the statutory provision

being interpreted; then giving it a label, here the label of “disgorgement power”, and then interpreting the words of the section within the parameters that the civil law has set for such a power. One of those parameters is the principle that a disgorgement order cannot be made against a person who has nothing to disgorge because he never unjustly enriched himself with the illicit profit that was gained from the illegal conduct.

76. This is not the correct approach to an exercise of statutory interpretation. Merely because a disgorgement order and section 257(1)(d) share the same social purpose, that is, preventing persons from profiting from their illegal conduct, does not mean that the section is to be construed as a disgorgement order and limited in its operation by the common law principles relating to such orders. Mr Li agreed to this and submitted that labelling the order a disgorgement order should only be done if, after conducting a proper exercise of statutory construction, it is concluded that section 257(1)(d) has the same ambit as a disgorgement order.

77. The meaning of section 257(1)(d) and the parameters of its operation fall to be determined by subjecting the words of the subsection to an interpretative process and, as I have made clear, this is done by applying the established principles of statutory interpretation, subject only to the qualification that I have mentioned that any interpretation of the subsection must not cause it to lose its character of a civil order and transform it into a criminal penalty. But, and this is crucial, it will only be at risk of losing its civil character if it can be said that its purpose has changed from depriving the wrongdoer of the profit of his wrongdoing to punishing the wrongdoer.

(iii) The jurisprudence of the Court of Final Appeal

78. This argument is based upon an assertion that it is clear from Court of Final Appeal judgments that extending the section by requiring the identified person to repay a profit that he gained for another causes it to lose its character of a civil order. It is said that support for this proposition comes from statements by Lord Nicholls NPJ in *Shek Mei Ling*²⁴ and also by Sir Anthony Mason in *Koon Wing Yee*²⁵ when dealing with section 23(1)(c) of SIDO. However, there are three matters of context that must be taken into account when analyzing the impact that their comments have upon an interpretative exercise that is being conducted in respect of section 257(1)(d).

79. The first contextual matter is that their comments were made in the process of comparing the elements of both section 23(1)(b) and (c) and distinguishing these two provisions. They were not made as part of an interpretative exercise being conducted in respect of section 23(1)(b) and certainly not of the subsection as a stand-alone provision.

80. It is here that the legislative history argument assumes prominence for the SFO simply repeated section 23(1)(b) when drafting section 257(1)(d) and left out section 23(1)(c), including leaving out the words “any person” so that section 257(1)(d), like section 23(1)(b), only allowed the Tribunal to make an order against the person it identified as having engaged in market misconduct. But, that does not mean, in my view, that the legislature intended that section 257(1)(d) should be nothing more than section 23(1)(b) with a different section number.

²⁴ See the passage from *Shek Mei Ling* that is quoted at [33] of this Ruling.

²⁵ See the passage from *Koon Wing Yee* that is quoted at [39] of this Ruling.

The legislature intended that the SFO should have a stand-alone civil order which served a similar purpose but the fact that it is a stand-alone provision will necessarily impact upon the interpretative analysis of it.

81. The second contextual matter is that underlying the comments of Lord Nicholls NPJ and Sir Anthony Mason NPJ is the distinction between the two concepts of the purpose of the power and the effect of the power. The former concept refers to the underlying reason for the power and what it was the legislature was seeking to achieve by it. The latter refers to the consequences that flow from the exercise of the power for they may indicate the real nature of the power and disclose its true purpose.

82. The third contextual matter is that what Lord Nicholls NPJ and Sir Anthony Mason NPJ were dealing with was a provision in section 23(1)(c) of SIDO whose purpose could not be the prevention of wrongdoers benefiting from their wrongdoing simply because there already existed a provision that served this purpose in section 23(1)(b).

83. If the purpose of section 23(1)(c) was not disgorgement then what was its purpose? Its purpose was really quite clear from the formula that was employed to calculate the maximum amount of the financial order that the Tribunal could impose. Permitting the Tribunal to make an order that went beyond the actual amount of the profit gained and which could be up to three times the amount of that profit was a clear indicator that the order was intended to have as its purpose the punishment of the identified person. Likewise, the fact that the Tribunal could also have regard to the amount of profit gained by persons

other than the identified person.

84. Section 23(1)(c) was an order which was intended to encompass all of the consequences of the identified person's wrongdoing. This is precisely the approach of the criminal law which looks not just to the benefit the defendant receives from his conduct but to all that flows from his wrongdoing, whether these consequences are beneficial or adverse to the interests of others. The comments of Lord Nicholls NPJ and Sir Anthony Mason NPJ must be understood in the context in which they were made; namely in contrasting two different sections in different legislation with a view to identifying the purposes which each was seeking to serve.

85. Given the context in which their comments were made, a context which lay behind and which influenced what they said, I do not take from these cases a binding statement of legal principle that a statutory provision that empowers the Tribunal to order an identified person to pay to the Government monies he has intentionally generated by his unlawful conduct for the benefit of another must, by reason of that fact alone, have as its purpose the punishment of the identified person.

86. In the present case we have only one section whose purpose is clear and beyond dispute. Even when deployed against an identified person who has personally profited from his market misconduct the effect it will have on the identified person is, standing in his shoes, a punitive one. But, as the case law makes clear, and as I have sought to emphasise, purpose and effect are different and the mere fact that an identified person feels a punitive effect when the order

is made does not mean that the order ceases to have as its purpose the repayment of a profit gained and to now have as its purpose the punishment of the identified person.

87. Mr Li also refers me to the comments made in these two Court of Final Appeal cases about the impact that the section 23(1)(c) order has on the identified person of leaving him “substantially out of pocket”, and suggests that such a consequence may point to an order under section 257(1)(d) being regarded as having a punitive purpose. I do not agree. These observations on the financial impact of the section 23(1)(c) order refer to power granted to the Tribunal to make an order for up to three times the profit gained. Under section 257(1)(d) the order the Tribunal can make is limited to the actual profit gained by the market misconduct.

88. Mr Li was also concerned that a broad construction would open the way for the Tribunal to have regard to any profit gained by any person unconnected with the identified person but who was a participant in the market and happened to benefit from the identified person’s abuse of the market. Again, I do not agree. Once the purpose of the section is identified as preventing the wrongdoer from benefiting from his wrongdoing then it will be interpreted and applied accordingly, and the Tribunal will only be concerned with the profit that the identified person generated for himself and for any person on whom he conferred the profit and not with profits serendipitously gained by innocent participants in the market.

(iv) Unfairness causing Section 257(1)(d) to become a fine

89. The third ground raises the spectre of a broad construction of the subsection in which the words, with the assistance of context and purpose, are given a meaning that transforms the power from a civil order into a criminal penalty. The broader the ambit of the power's area of operation, so the argument goes, the greater the risk that it may be perceived as operating in a way more characteristic of a criminal penalty than of a civil order. Underlying the argument that the provision's purpose has changed to one of punishment is the assertion that to order a person to disgorge monies he does not have is so unfair that the effect of the order is to penalise the identified person and consequently the order is being taken outside the scope of a civil sanction and into the realm of a criminal penalty.

90. But, the subsection contains in-built limits on the scope of its application. The first, is that the order can only be for the amount of the profit gained or loss avoided. The second is that the Tribunal may only make the order against the person it has identified as having engaged in the market misconduct from which the profit has flowed. No matter how many persons benefit from the illicit profit, no order can be made against them unless the Tribunal identifies them as also having engaged in the market misconduct. These features are clearly intended to provide the power with the character of a civil sanction and are key to achieving this goal.

91. But, a person can, in a broad sense, "profit" from his market misconduct without being the beneficiary of the profits generated by it. If a person embarks

upon a course of illegal conduct in order to financially benefit another, and succeeds in doing so, then he has achieved the goal he set himself. Why, then, has he not profited from his conduct? He intended to carry out a course of illegal conduct; he intended that illegal conduct to generate an illicit financial gain and he intended that another should be the beneficiary of that illicit gain. He has succeeded in all he set out to do. In short, he has profited from his wrongdoing.

92. When this set of circumstances is encountered there is nothing necessarily unfair in requiring him to repay the profits gained from the market misconduct. It is no answer to say that this is punishing him and that consequently the civil sanction now operates as a fine. As I have noted, every such order in section 257(1) will be felt punitively by the person affected by it. But, as Sir Anthony Mason NPJ noted in *Koon Wing Yee* in respect of section 257(1)(a) disqualification orders, the deterrent and punitive effect “is incidental and subservient to the purpose of protecting shareholders, investors and the public from corporate officers who are unfit to hold office”.²⁶ Thus, having a punitive effect does not, by virtue of that fact alone, change its purpose from depriving the wrongdoer of the profit he has gained and “restoring the *status quo ante*”²⁷ into the purpose of punishing the wrongdoer and thereby cloaking the order with the character of a criminal fine.

93. The order is limited to a particular person who is guilty of wrongdoing and to a particular amount, namely the amount of the profit gained from the wrongdoing. Ultimately, any issue of unfairness can be left to the Market

²⁶ *Koon Wing Yee v Insider Dealing Tribunal* (2008) 11 HKCFAR 10, 197.

²⁷ Per Hartmann and Lam JJ in *Chau Chin Hung & another v Market Misconduct Tribunal* quoted at [60] of this Ruling.

Misconduct Tribunal to determine on the facts of the market misconduct committed and the circumstances of the identified person before it. In this regard it is well to remember that the amount the Tribunal may order is a maximum amount which every Tribunal may, in its discretion, reduce or the Tribunal may decide not to invoke the power in the subsection at all.

(v) The Chinese text of section 257(1)(d)

94. It is Mr Li's contention that the Chinese version of section 257(1)(d) makes clear that his first interpretation is the correct reading of the subsection. He submits that although the legislature adopted in the English text of section 257(1)(d) an essentially identical wording to section 23(1)(b) of SIDO, the Chinese text of section 257(1)(d) was refined "to make expressly clear that the provision covers only the profit gained or loss avoided by the specified person for/to himself". He argues that section 257(1)(d) in its Chinese text cannot bear the expansive meaning of the second and third interpretations.

95. Mr Li referred me to section 10B of the Interpretation and General Clauses Ordinance (Cap. 1) which states:

- "(1) The English language text and the Chinese language text of an Ordinance shall be equally authentic, and the Ordinance shall be construed accordingly.
- (2) The provisions of an Ordinance are presumed to have the same meaning in each authentic text.
- (3) Where a comparison of the authentic texts of an Ordinance discloses a difference of meaning which the rules of statutory interpretation ordinarily

applicable do not resolve, the meaning which best reconciles the texts, having regard to the object and purposes of the Ordinance, shall be adopted.”

96. In respect of this provision, Mr Li relied on the Court of Appeal decision in *HKSAR v Tam Yuk Ha*²⁸ where it was said:

“Under s.10B of Cap. 1, both the English and Chinese texts of an ordinance are equally authentic and they are presumed to have the same meaning. The court should try to interpret the relevant provisions of the ordinance on that basis. This must be the approach to be adopted ...”

This approach was affirmed by the Court of Final Appeal for legislation which is enacted in both the English and Chinese languages.²⁹ The SFO, and also the SIDO, were both enacted in the English and Chinese languages.

97. Mr Li informed me that a literal translation of the Chinese text of section 257(1)(d) is:

“Order him to government pay a sum of money the amount shall not exceed that person because (of) that misconduct thus caused him gained profit or avoided loss of amount”.

He submitted in respect of this literal translation:

“The express words ... ‘caused him’ put beyond doubt that section 257(1)(d) covers only the profit gained or loss avoided by the specified person for/to himself. The first reading of the provision is the correct one.”

²⁸ [1997] HKLRD 1031 at 1037J.

²⁹ See *HKSAR v Chan Chun Kit* (2022) 25 HKCFAR 191 at 222, [58].

98. Mr Li then contrasted the Chinese words that were employed in the text of section 257(1)(d) with the Chinese words employed in the text of section 23(1)(b) of SIDO. The Chinese text of the SIDO provision is, according to Mr Li, literally translated as:

“Order that person to government pay a sum money the amount shall not exceed that person because engage in that insider dealing.”

After conducting this comparison of the two Chinese texts, Mr Li submitted:

“Thus, when the legislature re-enacted section 23(1)(b) of the SDIO (sic) into section 257(1)(d) of the SFO, it adopted the English version in materially identical wording, but refined the Chinese wording to make expressly clear that the provision covers only the profit gained or loss avoided by the specified person for/to himself.”

99. From his analysis of the Chinese texts of section 23(1)(b) of SIDO and section 257(1)(d) of the SFO, Mr Li concluded:

“The first reading is made clear by the Chinese version of section 257(1)(d) of the SFO. Since the English and Chinese texts are presumed to have the same meaning, this reading is the correct one.”

100. Mr Li’s argument essentially comes down to this. The Chinese text, on its own, makes clear that what the legislature meant by section 257(1)(d) was what he describes as the first reading of the section; that is, that the section only applies to a profit gained or loss avoided by the Specified Person for or to himself. That this is what is meant by the Chinese text becomes more apparent when the Chinese text is subjected to a contextual analysis. This contextual analysis is done by

taking into account that while section 257(1)(d) is, in its English text, essentially merely a repeat of section 23(1)(b), there is a difference between the Chinese text in section 23(1)(b) and the Chinese text in section 257(1)(d). This difference, it is said, strengthens the conclusion that the Chinese text means that the section only applies to a profit gained or loss avoided by the Specified Person for himself.

101. Section 257(1)(d), in its English text, applies to:

“...any profit gained or loss avoided by the person as a result of the market misconduct...”

In its Chinese text, the section applies to:

“...that person because (of) that misconduct thus *caused him* gained profit or avoided loss of amount ...”

(Emphasis added)

Section 23(1)(b) of SIDO, in its Chinese text, applied to:

“...a sum money the amount shall not exceed that person because engage in that insider dealing.”

102. I am not persuaded by Mr Li’s argument. I say this for the reasons set out below, but I do wish to make clear that in reaching my conclusions I have taken into account that I am not a native Chinese speaker and that there may be nuances in the Chinese texts which I cannot appreciate and which a literal translation of the Chinese texts does not do justice in conveying.

103. A side-by-side comparison of the English and Chinese texts of section

257(1)(d) does not, in my view, resolve the issue that I must decide. The literal translation of the Chinese text raises the same issue of interpretation. To achieve complete clarity the Chinese text, like the English text, would have to contain the words “for himself” so that the Chinese text would read:

“...that person because (of) that misconduct thus caused him gained profit or avoided loss *for himself* of amount.”

104. The words “caused him” simply link the market misconduct to the profit gained or loss avoided and do not necessarily encompass the sole meaning that the profit gained or loss avoided be only for the Specified Person.

105. I now turn to the question of whether, once regard is had to the change made in the Chinese text from what was in section 23(1)(b) of SIDO to what is now in section 257(1)(d), the meaning of the Chinese text in section 257(1)(d) becomes clearer. I do not think that this contextual analysis assists Mr Li – indeed, quite the contrary, it positively assists the contrary conclusion. I shall explain why.

106. In context, section 23(1)(b) was one of two provisions in section 23 dealing with the orders that a Tribunal could make against a Specified Person in respect of the profit gained or loss avoided. Section 23(1)(b) was a civil disgorgement-like provision which, when read with section 23(1)(c), was interpreted as applying only to the profit gained or loss avoided by the Specified Person for himself. This, it will be recalled, was the reason the Firststone Tribunal sought to extend the operation of the subsection to profits controlled by the Specified Person but disbursed by him to others. In contrast, section 23(1)(c) was a punitive provision which empowered the Tribunal to make an order against the

Specified Person for up to three times the amount of any profit gained or loss avoided by *any* person.

107. The Chinese text in section 23(1)(b) was, presumably, employing language intended to implement the distinction between the two subsections; language that made it clear that the section 23(1)(b) power could only be used against profits gained by the Specified Person for himself. If this was so, and if it was intended to similarly confine section 257(1)(d) in its operation, then why was there a need to change the wording of the Chinese text in section 257(1)(d)? Could it have been to ensure that when section 257(1)(d) was to be enacted as a stand-alone provision, any profits gained or losses avoided by others could be brought within the operation of the section?

108. Section 23(1)(b)'s Chinese text arguably implies the word "received" after the words "that person" as if it read:

"...shall not exceed (what) that person (received) because engage in that insider dealing."

109. But, the language of the Chinese text in section 257(1)(d) changed to:

"...shall not exceed that person because (of) that misconduct thus caused him gained profit or avoided loss of amount."

110. Contrary to Mr Li's submission, I am of the view that, once placed in context, the more likely explanation for this change in the Chinese text was to broaden section 257(1)(d) beyond the parameters of section 23(1)(b) so that it

now included the profits gained or losses avoided by others.

111. For these reasons, I am not persuaded that the Chinese text in section 257(1)(d), whether considered on its own or in conjunction with the Chinese text in section 23(1)(b), compels me to adopt an interpretation of section 257(1)(d) that confines its application to only profits gained or losses avoided by the Specified Person for himself.

Resolving the Competing Meanings

112. As I have already indicated, it is the position of the SFC, as articulated by Mr Li, that it is not possible to interpret section 257(1)(d) so that it empowers the Tribunal to make an order against a Specified Person who neither enjoyed the profit gained nor was able to exercise control over it. The SFC recognises the problems that such an interpretation causes and it appreciates that an interpretation that empowers the Tribunal to make an order against the Specified Person in these circumstances is desirable. Mr Li has been assiduous in identifying for my benefit all the impediments that stand in the way of such an interpretation. This he has done in order to assist me and I wish to record that I have, indeed, benefited enormously from his written and oral submissions. This has been particularly important as I have not had the benefit of detailed written legal submissions on behalf of the Specified Person.

113. On the assumption that the language of the subsection gives rise to competing meanings, and on the assumption that the judgments of the Court of Final Appeal and the words employed in the Chinese texts do not compel me to

adopt the narrow interpretation, then, having determined the context and purpose of section 257(1)(d) as previously set out, it becomes necessary to examine the words of the subsection, uninfluenced by the civil law of unjust enrichment and disgorgement orders, and interpret them by reference to that context and purpose.

114. One way of testing which of the two interpretations truly reflects the legislature's intention and best implements the social policy underlying it is to examine how each would operate in practice. Requiring proof that the identified person personally profited from his market misconduct would mean that in all but the most straightforward of cases a fund tracing exercise will have to be conducted in order to determine what has happened to the profit gained from the market misconduct. This is because, as we have said, there is nothing unusual in a wrongdoer employing the accounts of others to distance himself from his wrongdoing with a view to concealing his involvement in it.

115. The question then arises of what the position would be if the tracing exercise is inconclusive, as indeed it may be in the present case. Does it mean that no order can be made against the identified person, as the parties assert is the position with Mr Iu? Also, if a number of persons are jointly involved in the market misconduct is it necessary to establish how much each received of the profit gained and to make section 257(1)(d) orders against each offender only in respect of the specific amount that each received? Similarly, if there is only one identified person but it is clear that he did not receive the whole of the profit gained, must the order be limited to only that which he did receive?

116. Asking these questions reveals how an interpretation requiring proof of

personal enjoyment of the illicit profit would result in a clumsy and inefficient, and potentially ineffective, implementation of the social policy for which the subsection was enacted. That this interpretation would produce this result is not contested by Mr Li for the SFC but it is his position that this unhappy consequence is simply the result of the way the subsection is drafted and, given the legislative and judicial history of the power, must be interpreted.

117. Returning to the present case, let us assume that the Mr Iu never intended to keep his illicit profit for himself but all along intended to confer the profit on his mother. It is proven that he intentionally engaged in market misconduct and that he intended by so doing to gain a profit. He successfully achieved his goal in that he gained a profit as a result of his market misconduct, albeit it was a profit that he did not personally enjoy. Had he used his own trading account and transferred the profit to his mother, a section 257(1)(d) order could be made because he would have gained ownership of the profit from his market misconduct before exercising control over it to transfer it to his mother. However, because he was using his mother's trading account it was not necessary for him to take any further action in order to ensure that his mother could enjoy the illicitly gained profit. In this latter situation no order could be made if it is necessary to prove that the identified person gained the profit for himself or at least exercised control over its disposition.

118. Yet, Mr Iu achieved his goal of conferring an illicitly gained profit on his mother and if no section 257(1)(d) order is made against him it can be said that he is being allowed to profit from his wrongdoing. This is completely contrary to the policy underlying the creation of the section 257(1)(d) power and

makes a mockery of the law as it rewards Mr Iu for his cleverness in carrying out his market misconduct in a way which distances him from the profit he gained from it when the generation of this illicit profit for the benefit of another was the whole purpose of his wrongdoing.

119. Arguably, it could be said that at the time Mr Iu decided to make use of his mother's account he was then exercising control over any future illicit profits he might gain and at that time making the decision as to who would be the beneficiary of any profit gained from his market misconduct. But, it is hardly desirable to have to resort to such reasoning in order to arrive at a result that the legislature intended.

120. Furthermore, preventing persons who engage in market misconduct from profiting from that conduct can be achieved in two ways. The first, and perhaps most obvious, way is to deprive them of the profit that they, personally, have gained. This is the situation that the civil law of disgorgement addresses. But, a second way is to change the nature of the monies that were generated by the market misconduct from a profit that was illicitly obtained into a personal payment by the wrongdoer. By making the wrongdoer reimburse Government for the monies he generated as an illicit profit, and which he then disbursed directly or, as in the present case indirectly, to others, the illicit profit becomes in effect, a personal payment by the wrongdoer to that other and its character of an illicit profit generated by wrongdoing, is neutralised. When this is done, the legislative purpose of ensuring that persons do not profit from illegal conduct is not defeated by the manner in which the Specified Person conducts his market misconduct or deals with any profit gained from it. Rather, in the words of

Hartmann and Lam JJ in *Chau Chin Hung*, it applies “the ancient principle – based on natural justice – that a wrongdoer should not be permitted to retain the proceeds of his wrongdoing. Effectively, insofar as it is possible, it seeks to restore the *status quo ante*”³⁰.

121. The interpretation that the identified person must have personally enjoyed, or at least exercised control over, the profit gained from his market misconduct relies exclusively on a literal meaning attributed to the words used with emphasis on the specific words “by the person”. It may be easy to be seduced by the power of these words but they, and the other words of the subsection, must always be interpreted by reference to context and purpose in order to avoid the trap described by Ma CJ in *T v Commissioner of Police*.³¹

122. The statutory purpose embodies a very simple, but extraordinarily important, social policy and the statutory provision implementing this policy should be viewed in equally simple and clear terms. It should not be complicated by viewing it through the lens of the civil law of unjust enrichment and disgorgement orders or by limiting its operation by reference to the history of an earlier legislative incarnation of the power. Requiring that the identified person also be the beneficiary of the profit gained as a result of his market misconduct does not give effect to the intention of the legislature because it does not effectively implement and advance the legislative purpose for which the subsection was enacted. However, not implying this additional requirement into the subsection does advance the purpose for which the subsection was enacted and it prevents that purpose from being defeated by the manner in which the

³⁰ See the full quotation at [60] of this Ruling.

³¹ (2014) 17 HKCFAR 593, quoted at [50] of this Ruling.

market misconduct is carried out or by what is done with the unlawful profit that has been gained. Importantly, because it is against the person who deliberately embarked upon the market misconduct in order to gain this profit, and because it is for no more than the actual profit gained, it does not make the purpose of the order punitive.

123. In my view, once regard is had to context and purpose there can be no doubt over which interpretation most accurately reflects the intention of the legislature, most effectively implements the social purpose for which the subsection was enacted and remains consistent with its statutory context. That is not the interpretation that the Specified Person must have personally enjoyed the profit gained or, at the very least, been able to exercise control over its disposition, as that interpretation actually undermines that legislative purpose and, in the circumstances of the present case, defeats it.

124. For the reasons I have given I am not persuaded that the legislative history of this power, and the case law concerning its predecessor provision, prevent me from interpreting section 257(1)(d) in the way which best advances its legislative purpose.

Conclusion

125. The Tribunal is directed that in determining whether it should make an order under section 257(1)(d) of the SFO the Tribunal does not have to be satisfied that the identified person received or enjoyed the benefit of the illicit profit or was in a position to exercise control over it. All that needs to be shown are that the

identified person committed market misconduct as a result of which a profit was gained or a loss was avoided. Once that is proven the Market Misconduct Tribunal is empowered to make a section 257(1)(d) order. Whether it does so and in what amount will be a matter for the Tribunal in the exercise of its discretion.



Mr Ian McWalters, GBS
(Chairman)

Dated this 11th day of January 2024