

## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded and fined Brilliance Asset Management Limited (**Brilliance**)<sup>1</sup> HK\$3.15 million pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken in respect of Brilliance's failure to ensure the short position reports (**SPRs**) it prepared and submitted to the SFC **between 8 July 2016 and 30 August 2019 (Relevant Period)**, in relation to **four collective investment schemes (CISs) under its management**, were accurate and compliant with the requirements under the Securities and Futures (Short Position Reporting) Rules (**SPR Rules**).

### Regulatory Requirements regarding SPRs

3. Under rule 4(2) of the SPR Rules, a person who has a reportable short position in any specified shares at the close of trading on The Stock Exchange of Hong Kong Limited (**SEHK**) on the last trading day of each week must notify the SFC of the position within two business days.
4. Rules 3(1) and 3(2)(b) of the SPR Rules further stipulate that a person has a reportable short position if the net short position value the person holds in a specified share is equal to or more than the lower of (i) HK\$30 million; and (ii) 0.02% of the value of the total number of the specified shares issued.
5. "Specified shares" are defined under rule 2 of the SPR Rules as shares in a company which are listed or admitted to trading on SEHK.

### Summary of Facts

6. During the Relevant Period, **a total of 7,814 short positions held respectively by four CISs under Brilliance's management have been either misstated in or omitted from 403 SPRs submitted (or failed to be submitted) by Brilliance to the SFC.**
7. There were three separate causes to the errors found in the SPRs prepared by Brilliance:
  - (a) assets of the CISs managed by Brilliance have been held through a number of prime brokers. **An additional prime broker for these CISs (Additional PB) was engaged in July 2017. However, between July 2017 and June 2018, Brilliance failed to include the short positions held by the CISs through the Additional PB into its calculations of the total short positions when preparing the SPRs;**
  - (b) **between December 2016 and August 2018, Brilliance had been using the aggregated net short positions of all CISs as the basis for**

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<sup>1</sup> Brilliance is licensed under the SFO to carry on Type 9 (asset management) regulated activity.

preparing the SPRs and reported these aggregated positions under the name of one of the CISs, instead of separately calculating and reporting the net short positions of each CIS as required under the SPR Rules; and

- (c) between July 2016 and August 2019, in calculating whether the net short positions held by the CISs exceeded the threshold of 0.02% of the value of the total number of specified shares issued, instead of using the total value of shares trading on SEHK as the denominator (pursuant to rule 2 of the SPR Rules), Brilliance had been using as denominator the market capitalisation values of the companies downloaded from Bloomberg, which included the values of the companies' A-shares and non-listed shares.

8. While the statutory obligation to make SPRs falls on the CISs (instead of Brilliance) under the SPR Rules, Brilliance was found to have prepared and submitted SPRs on behalf of the CISs during the Relevant Period.

### **Conclusion**

9. The SFC considers that Brilliance had failed to act competently to ensure the SPRs it prepared would be accurate and compliant with the applicable requirements under the SPR Rules.
10. In reaching the decision to take the disciplinary action set out in paragraph 1 above, the SFC has taken into account all relevant circumstances, including Brilliance's prompt remedial actions and cooperation with the SFC in resolving the SFC's concerns and its otherwise clean disciplinary record.