
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has reprimanded and fined Sino-Rich Securities & Futures Limited (**Sino-Rich**)¹ \$7.2 million pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The disciplinary action is taken in respect of Sino-Rich's failures in complying with anti-money laundering and counter-terrorist financing (**AML/CTF**) regulatory requirements.
3. The SFC's investigation found that between April 2015 and October 2017 (**Relevant Period**), Sino-Rich failed to:
 - (a) establish and implement adequate and effective internal policies and procedures to detect, process and approve cash deposits made by its clients (**Cash Deposits**) and fund transfers to/from its client accounts from/to third parties (**Third Party Transfers**); and
 - (b) conduct proper enquiries on suspicious Cash Deposits and Third Party Transfers and/or report them to the Joint Financial Intelligence Unit (**JFIU**).

Summary of facts and breaches

A. Failure to establish and implement adequate and effective internal policies and procedures to detect, process and approve Cash Deposits and Third Party Transfers

A1. Inadequate internal policies or procedures

4. Although Sino-Rich had in place policies and procedures for AML/CTF controls during the Relevant Period, such policies and procedures did not provide:
 - (a) who was the Money Laundering Reporting Officer (**MLRO**) of Sino-Rich;
 - (b) who should be responsible for reviewing the client transactions and identifying Cash Deposits and/or Third Party Transfers;
 - (c) who should be responsible for assessing and approving Cash Deposits / Third Party Transfers; and
 - (d) how Sino-Rich should document: (i) its clients' requests for Cash Deposits / Third Party Transfers; and (ii) its enquiries into and approvals of such requests.
5. In the absence of written policies and procedures on the matters stated in the preceding paragraph, it is unclear how Sino-Rich guided and supervised its staff on how to detect,

¹ Sino-Rich is licensed to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 4 (advising on securities), Type 5 (advising on futures contracts) and Type 9 (asset management) regulated activities under the SFO.

process and approve Cash Deposits and Third Party Transfers during the Relevant Period.

A2. Failure to implement AML/CTF policies and procedures in relation to Cash Deposits and Third Party Transfers

6. Although it was not stated in its internal control policies and procedures, Sino-Rich and/or its staff members informed the SFC that during the Relevant Period:
 - (a) **Mr Budihardjo Wilhelm Soeharsono² was the MLRO of Sino-Rich;**
 - (b) Cash Deposits and Third Party Transfers were discouraged at Sino-Rich; and
 - (c) upon receipt of a request for Cash Deposit / Third Party Transfer, Sino-Rich's account executive (**AE**) had to fill in an appropriate instruction form for approval by its senior management.
7. The SFC, however, found that Sino-Rich's staff did not follow the policies and procedures that Sino-Rich claimed that it had implemented during the Relevant Period.
8. During the Relevant Period, Sino-Rich's staff had routinely processed:
 - (a) **238 Cash Deposits, with an aggregate amount of over \$30 million;** and
 - (b) **269 Third Party Transfers, with an aggregate amount of over \$900 million.**

Cash Deposits

9. For Cash Deposits, there was no requirement that Sino-Rich's AEs should document the reasons for the Cash Deposits and what enquiries they had made with the relevant clients. Also, it was unnecessary for Sino-Rich's responsible officers (**ROs**) / senior management members to sign and approve the Cash Deposits.
10. It was only after the SFC issued a management letter to Sino-Rich in November 2016 that Sino-Rich required its staff to record the reasons and the ROs' approval for Cash Deposits.

Third Party Transfers

11. With respect to Third Party Transfers, Sino-Rich's staff were required to fill in the relevant Third Party Transfer forms setting out the reason for the Third Party Transfer and the client's relationship with the third party.
12. **Among the 269 Third Party Transfers processed by Sino-Rich during the Relevant Period, six of them were not documented in any Third Party Transfer form.**
13. For those Third Party Transfers that were documented in the Third Party Transfer forms, **the client's relationship with the third party, the reason for the Third Party Transfer and/or the client's signature were not provided in around 40% of the forms.**

² He has been Sino-Rich's (a) Chief Executive Officer since 2011; (b) RO since 22 August 2011; and (c) Manager-In-Charge (**MIC**) of Anti-money Laundering and Counter-Terrorist Financing, Compliance, Finance and Accounting, Key Business Line, Operational Control and Review, Overall Management Oversight and Risk Management since 25 April 2017 and MIC of Information Technology since 8 February 2019.

14. For those Third Party Transfer forms on which the client's relationship with the third party and/or the reason for the Third Party Transfer were provided, the relationships/reasons stated include:
 - (a) friends / friendly party / friend's company / friendly company;
 - (b) business partner / business dealing / business exchange / business payment;
 - (c) repayment / payment / loan / refund;
 - (d) borrower / lender;
 - (e) fund transfer; and
 - (f) convenience / not in Hong Kong.
15. **The relationships/reasons set out in paragraph 14 above do not include sufficient particulars to explain why the relevant clients had to use their securities/futures accounts at Sino-Rich to receive or route funds from/to third parties.**
- B. Failure to conduct proper enquiries on suspicious Cash Deposits and Third Party Transfers and/or report them to the JFIU**
16. Sino-Rich submitted that:
 - (a) it did not consider the Cash Deposits and Third Party Transfers processed by its staff suspicious or warranted a report to the JFIU; and
 - (b) for those requests that were suspicious or involved money laundering (**ML**) and/or terrorist financing (**TF**) risks, it would have rejected them on the spot, but there is no record of such rejections.
17. Contrary to Sino-Rich's submissions, the SFC found that, during the Relevant Period:
 - (a) there is no record of any enquiries made by Sino-Rich's staff with the clients and approvals by the ROs for 215 of the 238 Cash Deposits; and
 - (b) **at least 223 of the 269 Third Party Transfers were unusual or should have given rise to suspicion on the part of Sino-Rich** under paragraphs 7.14 and 7.39 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (April 2015) (**AML Guideline**).
18. For illustration purpose, we set out below an example for each of the Cash Deposits and Third Party Transfers that had been processed by Sino-Rich which raised a number of red flags that warranted further enquiries or report to the JFIU.

Cash Deposits
19. Client A was a company wholly owned by Client B. Both Client A and Client B had a securities margin account at Sino-Rich.
20. The SFC's investigation revealed that:

- (a) between 17 and 24 November 2015, there were 38 Cash Deposits, ranging from \$500 to \$200,000 and with an aggregate amount of \$3,000,000, into Client A's account;
 - (b) between 25 and 27 April 2016, there were 16 Cash Deposits, ranging from \$1,000 to \$299,000 and with an aggregate amount of \$2,000,000, into Client B's account; and
 - (c) on 28 April 2016, \$2,000,000, the same amount that had been deposited into Client B's account between 25 and 27 April 2016, was transferred to Client A's account.
21. The SFC found that the above Cash Deposits were unusual and suspicious, having considered:
- (a) the frequency of the Cash Deposits, ie, there were 38 Cash Deposits into Client A's account in a period of eight days and 16 Cash Deposits into Client B's account in a period of three days;
 - (b) the aggregate amount of the 38 Cash Deposits into Client A's account exceeded Client A's liquid assets and annual net profit declared in its account opening documents;
 - (c) Client B did not use any of the 16 Cash Deposits to purchase securities in his account. Instead, Client B transferred the entire \$2,000,000 to Client A's account one day after the last Cash Deposit was made into his account; and
 - (d) it is unclear why Client B did not make Cash Deposits into Client A's account directly but had to route cash to Client A's account through his account.
22. In response to the SFC's enquiries, Sino-Rich submitted that, on 13 May 2016, it had issued a warning letter reminding Client B that the multiple Cash Deposits in Client A's Sino-Rich account in November 2015 and Client B's Sino-Rich account in April 2016 might constitute suspicious transactions.
23. Sino-Rich's approval of the Cash Deposits of Client A and Client B is inconsistent with the warning letter it gave to Client B. In light of its belief, as stated in its warning letter to Client B, that the multiple Cash Deposits in the accounts of Client A and Client B might constitute suspicious transactions, Sino-Rich should have rejected such deposits and/or reported them to the JFIU.

Third Party Transfers

24. On 15 December 2015, Client C opened a securities margin account at Sino-Rich. According to its account opening documents, Client C was a full-time investor.
25. The SFC's investigation revealed that:
- (a) on 18 December 2015, ie, three days after Client C opened an account at Sino-Rich, a sum of \$7,500,000 was deposited into his account;
 - (b) between 22 December 2015 and 13 January 2016, Client C transferred \$6,952,933.19 to different third parties on six occasions:

Date of the Third Party Transfer	Amount of the Third Party Transfer	Reason for the Third Party Transfer	Relationship between Client C and the third party
22/12/2015	\$1,500,000	Repayment	Not provided
28/12/2015	\$1,100,000	Repayment	Friend
31/12/2015	\$1,500,000	Not provided	Not provided
5/1/2016	\$1,040,000	Not provided	Business partner
5/1/2016	\$1,100,000	Repayment	Friend
13/1/2016	\$712,933.19	Repayment	Friend

- (c) there were no further activities in Client C's Sino-Rich account after the Third Party Transfer on 13 January 2016.
26. The SFC found that the above Third Party Transfers via Client C's account were unusual and suspicious, having considered:
- (a) the initial deposit of \$7,500,000 into Client C's account and all subsequent Third Party Transfers were incommensurate with Client C's estimated net worth / liquid assets / annual income declared in his account opening documents;
 - (b) the reason/relationship for some of the Third Party Transfers were not provided on the Third Party Transfer forms;
 - (c) although Client C's job title is given as a full-time investor in his account opening documents and there is no mention of his involvement in any business, Sino-Rich approved its Third Party Transfer on the basis that it was made to Client C's business partner;
 - (d) the reasons/relationships stated on the Third Party Transfer forms, namely "repayment", "friend" and "business partner", lacked particulars that could enable Sino-Rich to reasonably understand the reason why Client C transferred funds to his friends or business partner via his securities account at Sino-Rich; and
 - (e) there were no further activities in Client C's Sino-Rich account after the Third Party Transfers in January 2016.
27. There is no record that Sino-Rich has conducted proper enquiries on the unusual and suspicious circumstances set out in paragraph 26 above.

The SFC's findings

28. The failures of Sino-Rich set out above constitute a breach of:
- (a) Section 23 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AMLO**) and paragraph 2.1 of the AML Guideline, which require a licensed corporation to mitigate the risks of ML/TF and to prevent contravention of any customer due diligence and record keeping requirements under the AMLO.
 - (b) Paragraph 2.2 of the AML Guideline, which requires a licensed corporation to establish and implement adequate and proper AML and CTF policies, procedures and controls.

- (c) Paragraph 1 of Part I of the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission (**Internal Control Guidelines**), which requires management to assume full responsibility for the firm's implementation and ongoing effectiveness of its internal controls and the adherence to the same by its directors and employees.
- (d) General Principle (**GP**) 3 and paragraphs 4.2 and 4.3 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**), which require a licensed corporation to:
 - (i) have and employ effectively the resources and procedures which are needed for the proper performance of its business activities;
 - (ii) supervise diligently its employees; and
 - (iii) have internal control procedures which can reasonably be expected to protect its operations, its clients and other licensed or registered persons from financial loss arising from theft, fraud and other dishonest acts, professional misconduct or omissions.
- (e) Paragraph 7.19 of the AML Guideline, which requires a financial institution to appoint an MLRO as a central reference point for reporting suspicious transactions.
- (f) Paragraph 7.21 of the AML Guideline, which requires the MLRO to play an active role in the identification and reporting of suspicious transactions, which may involve regular review of large or irregular transaction reports.
- (g) Paragraph 9.6(c) of the AML Guideline, which requires that staff should be made aware of the licensed corporation's policies and procedures relating to AML/CTF, including suspicious transaction identification and reporting.
- (h) Paragraph 4 of Part I of the Internal Control Guidelines, which requires that detailed policies and procedures pertaining to authorisations and approvals, as well as the authority of key positions, should be clearly defined and communicated to and followed by staff.
- (i) Section 5(1)(b) of Schedule 2 to the AMLO and paragraph 5.1(b) of the AML Guideline, which require a licensed corporation to continuously monitor the activities of its clients to ensure that they are consistent with its knowledge of the clients and the clients' business, risk profile and source of funds.
- (j) Section 5(1)(c) of Schedule 2 to the AMLO and paragraphs 5.1(c), 5.10 and 5.11 of the AML Guideline, which require a licensed corporation to:
 - (i) identify transactions that are complex, large or unusual, or patterns of transactions that have no apparent economic or lawful purpose; and
 - (ii) make relevant enquiries to examine the background and purpose of the transactions, and report to the JFIU where appropriate. The findings and outcomes of these examinations should be properly documented in writing and be available to assist the relevant authorities.

- (k) Paragraphs 7.5(b) and 7.11 of the AML Guideline, which require that where a transaction is inconsistent in amount, origin, destination, or type with a client's known, legitimate business or personal activities, the transaction should be considered as unusual and the licensed corporation should be put on alert and make a disclosure to the JFIU as soon as reasonably practical after suspicion of ML/TF was first identified.
- (l) GP 2 of the Code of Conduct, which requires a licensed corporation to, in conducting its business activities, act with due skill, care and diligence, in the best interests of its clients and the integrity of the market.

Conclusion

- 29. The SFC is of the view that Sino-Rich is guilty of misconduct and its fitness and properness to carry on regulated activities have been called into question.
- 30. In deciding the disciplinary sanction set out in paragraph 1 above, the SFC has had regard to its Disciplinary Fining Guidelines and has taken into account all relevant considerations, including:
 - (a) Sino-Rich's failures lasted for more than two years and involved over \$930 million;
 - (b) it is important for licensed corporations to have in place adequate and effective internal control systems to mitigate the risk of ML/TF;
 - (c) Sino-Rich cooperated with the SFC to resolve the SFC's regulatory concerns;
 - (d) in resolving the SFC's regulatory concerns, Sino-Rich agreed to engage an independent reviewer to review its internal controls; and
 - (e) Sino-Rich has no previous disciplinary record with the SFC.