

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has suspended the licences of:
 - (a) Mr Budihardjo Wilhelm Soeharsono¹ (**Budihardjo**) – chief executive Officer, director, responsible officer (**RO**) and money laundering reporting officer (**MLRO**) of Sino-Rich Securities & Futures Limited (**Sino-Rich**), for 10 months from 15 July 2021 to 14 May 2022; and
 - (b) Mr Shing Yan² (**Shing**), an RO and director of Sino-Rich, for seven months from 15 July 2021 to 14 February 2022,pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).

Summary of facts

2. The SFC found that, between April 2015 and October 2017 (**Relevant Period**), Sino-Rich³ 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**).
3. The SFC found that Sino-Rich's failures were attributable to the failures of Budihardjo and Shing to discharge their managerial and supervisory duties as senior management members and ROs of Sino-Rich. Budihardjo also failed to discharge his duties as an MLRO of Sino-Rich.
 - A. *Failure to ensure that Sino-Rich established and implemented adequate and effective internal policies and procedures to detect, process and approve Cash Deposits and Third Party Transfers*
4. Although Sino-Rich had in place policies and procedures for anti-money laundering (**AML**) and/or counter-terrorist financing (**CTF**) controls during the Relevant Period, such policies and procedures did not provide:
 - (a) who was the MLRO of Sino-Rich;

¹ Budihardjo has been licensed under the SFO since 25 June 2004. Budihardjo has been accredited to Sino-Rich 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, and approved to act as its RO since 22 August 2011.

² Shing has been licensed under the SFO since 13 September 2005. Shing has been accredited to Sino-Rich to carry on Types 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities since 15 March 2011, and has been approved as its RO since 13 November 2015.

³ Please refer to the SFC's [press release](#) and [Statement of Disciplinary Action](#) published on 15 March 2021.

- (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) clients' requests for Cash Deposits/Third Party Transfers; and (ii) its enquiries into and approvals of such requests.
5. The above suggests that Budihardjo and Shing failed to take reasonable steps to ensure that Sino-Rich had adequate and effective policies and procedures for detecting, processing and approving Cash Deposits and Third Party Transfers.
- B. Failure to personally follow and/or diligently supervise Sino-Rich's staff to ensure they follow Sino-Rich's policies and procedures*
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) Budihardjo 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 had to fill in an appropriate instruction form for approval by its senior management.
7. The SFC, however, found that Budihardjo and Shing have failed to diligently supervise Sino-Rich's staff to ensure that they follow the policies and procedures that Sino-Rich claimed that it had implemented.
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.
9. Further, the SFC found that during the Relevant Period, Budihardjo was personally involved in three Cash Deposits and 14 Third Party Transfers via his personal Sino-Rich account between May 2015 and January 2017.
10. As an RO and MLRO, the SFC expects Budihardjo to implement proper controls to prevent clients from using Sino-Rich's accounts as conduits of fund transfers. The SFC is concerned that Budihardjo had used his own Sino-Rich account to route funds.
- C. Failure to act with due skill, care and diligence to ensure that Sino-Rich conduct proper enquiries on suspicious Cash Deposits and Third Party Transfers and/or report them to the JFIU*
11. 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 and/or terrorist financing risks, it would have rejected them on the spot, but there is no record of such rejections.
- 12. 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).
- 13. As an RO and/or MLRO responsible for the supervision of Sino-Rich's AML/CTF controls, Budihardjo and Shing were under a duty to review all suspicious transactions and fund movements, obtain information from clients and conduct investigation where necessary, and analyse all relevant information and decide whether a suspicious transaction report should be submitted to the JFIU. Had Budihardjo and Shing exercised greater skill, care and diligence in reviewing the suspicious Cash Deposits and Third Party Transfers as stated in paragraph 12 above, they would have discovered a series of red flags and/or reported them to the JFIU, or should have at least discovered that there is no record of any proper enquiries on them.

Conclusion

- 14. The SFC is of the view that Budihardjo and Shing have failed to:
 - (a) act with due skill, care and diligence, in the best interest of the integrity of the market, in breach of General Principle (**GP**) 2 of the Code of Conduct for Persons Licensed by or Registered with the SFC (**Code of Conduct**);
 - (b) ensure the maintenance of appropriate standards of conduct and adherence to proper systems, controls and procedures by Sino-Rich, in breach of GP 9 of the Code of Conduct;
 - (c) diligently supervise their subordinates and the work undertaken by Sino-Rich, in breach of paragraph 4.2 of the Code of Conduct; and
 - (d) properly manage the risks associated with the business of Sino-Rich, in breach of paragraph 14.1 of the Code of Conduct.
- 15. In deciding the disciplinary sanctions set out in paragraph 1 above, the SFC has taken into account all relevant considerations, including that:
 - (a) the seriousness of Sino-Rich's regulatory breaches;
 - (b) Budihardjo and Shing are experienced in the financial industry and should have been well aware of their duties and responsibilities as ROs and senior management members of Sino-Rich; and
 - (c) Budihardjo and Shing's cooperation in resolving the SFC's regulatory concerns.