

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has publicly reprimanded Guosen Securities (HK) Brokerage Company, Limited (**Guosen**) and fined it HK\$2.8 million pursuant to section 194 of the Securities and Futures Ordinance.
2. The disciplinary action is taken because Guosen repledged clients' securities collateral with a bank as collateral for financial accommodation provided to Guosen without a valid standing authority (**CSR Incident**) and provided monthly statements with incomplete and incorrect information to its clients (**CNR Incident**), in breach of:
 - (a) sections 7 and 10 of the Securities and Futures (Client Securities) Rules (**CSR**);
 - (b) section 11(3) of the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules (**CNR**); and
 - (c) General Principles 7 (Compliance) and 8 (Client assets) and paragraphs 11.1 (a) (Handling of client assets) and 12.1 (Compliance: in general) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**).

Summary of Facts

3. Between December 2020 and March 2021, Guosen self-reported the CSR Incident and the CNR Incident. The SFC has conducted an investigation into these incidents.
 - A. *Guosen's repledging of securities collateral without a valid standing authority*
4. Guosen would obtain standing authority from its clients which authorised Guosen to deal with securities held or received on behalf of the client without having to provide the client with any prior notice or to obtain prior confirmation. This included depositing the client's securities collateral with an authorised financial institution as collateral for financial accommodation provided to Guosen.
5. The SFC's investigation found that between 1 January 2021 and 7 March 2021:
 - (a) Guosen relied on the standing authority given by 1,009 clients (**1,009 Affected Clients**) which had expired on 31 December 2020 to repledge their securities collateral with a bank (**Financial Institution**) as collateral for financial accommodation provided to Guosen; and
 - (b) the market value of the securities collateral repledged by Guosen ranged from around HK\$211 million to HK\$247 million, which included securities collateral belonging to the 1,009 Affected Clients and the securities collateral belonging to clients whose standing authority remained valid.

6. Guosen explained that:
 - (a) It started to use a new operating system (**Operating System**) since November 2020.
 - (b) The Operating System would automatically generate and send (i) renewal notices to clients for renewal of standing authority, and (ii) confirmation notices to clients after the standing authority is renewed (collectively, **Written Notices**). Upon issuance of the Written Notices, the Operating System would generate an email notification to Guosen confirming that the client's standing authority is renewed (**Email Notification**).
 - (c) On 3 March 2021, Guosen discovered that the Operating System did not dispatch the Written Notices to its clients in December 2020 for renewal of the standing authority which expired on 31 December 2020.
 - (d) The CSR Incident was caused by a technical bug in the Operating System with the effect that the Email Notification was generated and received by Guosen even though the Written Notices were not issued to clients (**Bug 1**).
7. Guosen conducted a user acceptance test before the Operating System was launched. However, Guosen had only tested the manual email delivery function of the Operating System, but not the automatic email delivery function. Bug 1 was therefore not identified at the time.
8. On 5 March 2021, Guosen repaid the relevant bank loan to the Financial Institution and arranged for redemption of all repledged securities collateral from the Financial Institution.
- B. Guosen's provision of monthly statements with incomplete and incorrect information to clients*
9. The SFC's investigation found that from May 2020 to November 2020:
 - (a) Guosen provided monthly statements with incomplete and incorrect information to a total of 930 clients (**930 Affected Clients**); and
 - (b) these monthly statements did not show the details of the contracts entered into on the last trading day of the month (such as date, product, currency and price). In addition, certain information stated in these statements (such as settlement price) was generated with reference to the currency/closing price of the day before the last trading day.
10. Guosen explained that:
 - (a) On 28 December 2020, Guosen noted certain discrepancies in the data extracted from its office system (**Office System**) and, upon enquiries, discovered that there were discrepancies between the monthly statements for 29 May 2020, 31 July 2020, 31 August 2020, 30 September 2020, 30 October 2020 and 30 November 2020 and data extracted from the Office System.
 - (b) The CNR Incident was caused by a technical bug in the upgraded version of the Office System adopted in May 2020 (**Bug 2**). As a result, Guosen

was required to manually restart the system before printing out the monthly statements so that such statements would reflect transaction details on the last trading day of each calendar month.

11. Guosen conducted a user acceptance test before the Office System was upgraded. However, Guosen had only performed user acceptance tests of all new functions and specifications, but not the monthly statement generation function. Thus, Bug 2 was not identified at the time.
12. On 30 December 2020, Guosen re-issued correct monthly statements to the 930 Affected Clients.

Conclusion

13. The conduct of Guosen set out above constitutes a breach of:
 - (a) sections 7 and 10 of the CSR as it repledged clients' securities collateral with the Financial Institution in the absence of a valid standing authority and used clients' securities collateral as collateral for financial accommodation provided to Guosen without clients' authorisation;
 - (b) section 11(3) of the CNR as it provided monthly statements with incomplete and incorrect information to its clients;
 - (c) General Principle 7 (Compliance) and paragraph 12.1 (Compliance: in general) of the Code of Conduct as it failed to comply with, and implement and maintain measures appropriate to ensuring compliance with the CSR, the CNR and the Code of Conduct; and
 - (d) General Principle 8 (Client assets) and paragraph 11.1 (a) (Handling of client assets) of the Code of Conduct as it failed to ensure that client assets were promptly and properly accounted for and adequately safeguarded.
14. The SFC has decided to take the disciplinary action against Guosen as described in paragraph 1 above, after taking into account all relevant considerations, including:
 - (a) Guosen's remedial actions and self-reports to the SFC regarding its breaches of CSR and CNR;
 - (b) the CSR Incident and the CNR Incident appear to be isolated incidents;
 - (c) there is no evidence of client loss as a result of Guosen's regulatory breaches; and
 - (d) Guosen cooperated with the SFC in resolving the SFC's concerns and accepting the SFC's findings and disciplinary action.