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## SFC Fines and Reprimands Cheng Hok Wai, and Reprimands Evergreen Securities Limited and Cheng Ho Yan Erik for Repeated Breaches of the Financial Resources Rules

23 Mar 2005

The SFC has reprimanded Evergreen Securities Limited and its responsible officers, Mr Cheng Hok Wai and Mr Cheng Ho Yan Erik. Cheng Hok Wai has also been fined \$50,000. (Note 1)

Evergreen was prosecuted for breaching the Securities and Futures (Financial Resources) Rules (FRR) (Note 2). It failed to notify the SFC as soon as reasonably practicable after its liquid capital fell below the required liquid capital in three time periods. It also failed to notify the SFC within one business day after its liquid capital fell below 120% of its required liquid capital in two other time periods. The breaches were the result of Cheng Hok Wai's instructions to transfer Evergreen's funds to his private company in order to reduce that company's interest costs. Cheng Hok Wai was prosecuted for consenting to or connivance in Evergreen's failures. Although Cheng Ho Yan Erik was not directly involved in the transfers, he was aware of them but took no action to ensure Evergreen's compliance with the FRR.

Before these breaches, there had been another occasion where Evergreen's liquid capital fell below the required liquid capital. On that occasion, the SFC had reminded Evergreen that it viewed FRR breaches very seriously. Both Cheng Hok Wai and Cheng Ho Yan Erik knew about the previous warning before the further breaches were committed.

The SFC concludes that Evergreen Securities Limited, Cheng Hok Wai and Cheng Ho Yan Erik have been guilty of misconduct. In determining the level of penalty, the SFC has taken into account the parties' co-operation and lack of dishonesty, and the fact that Evergreen's clients did not suffer any pecuniary loss. The SFC also took into account that both Cheng Hok Wai and Evergreen pleaded guilty to the FRR breaches and were fined a total of \$40,000.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "A responsible licensee should pay proper heed to SFC warnings. Having been alerted by the SFC to a breach or other deficiency, a licensee should endeavour to take proper investigative, preventive and/or remedial measures as necessary. If he ignores it and harm results, the SFC will view the matter more seriously."

"Repeated breaches of the FRR demonstrate a disregard for market integrity. Guilty firms and their responsible officers can expect prosecution and disciplinary action," Mr Linning said.

Ends

Notes to Editor:

1. Evergreen Securities Limited is a corporation licensed to carry on Type 1 (dealing in securities) regulated activities. Cheng Hok Wai and Cheng Ho Yan Erik are its responsible officers, both licensed to carry on Type 1 (dealing in securities) regulated activities.

2. For details, please refer to [SFC press release dated 16 June 2004](#).

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