
Enforcement News

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SFC Reaches s201 SFO Agreement with South China Capital Limited and South China Research Limited

The SFC has entered into a sections 201(3) and (4) SFO agreement with South China Capital Limited and South China Research Limited (collectively "South China") (Note 1).

South China agree: (i) to undertake to engage an independent audit firm to carry out an internal control review within three years of the agreement, with the time of the review and terms of reference to be determined by the SFC; and (ii) that the relevant entity be sanctioned if it is found to have committed failures similar to those which they are currently being sanctioned for within three years from the agreement. Were it to re-offend, South China Capital would be suspended from sponsorship activities for 18 months and South China Research would be suspended for a minimum of three months. The final penalty determined will reflect the gravity of any subsequent breach but will be no less than the minimum penalty.

The SFC's investigations found that:

(i) South China Capital

South China Capital, in acting as a sponsor to the listing application for a listing applicant between October 2002 and October 2003 (Note 2), had failed to:

- ensure that the representations made and information provided by it or its client to regulators were true, accurate, complete and not misleading in a material aspect;
- conduct due and careful enquiries on the listing applicant's business;
- properly and diligently supervise persons employed by it to conduct business on its behalf; and

- keep a proper audit trail of work done.

(ii) South China Research

South China Research failed to adequately enforce its staff dealing policy which resulted in two of its staff members to have failed to avoid conflict of interests in July to October 2003 (Note 3).

In deciding to enter into the agreement with South China, the SFC has taken into account that: (i) there has been no loss to investors; (ii) age of the conduct; (iii) South China has no apparent compliance issues since the respective misconduct; (iv) steps South China has taken to review the operations, and improve the internal control systems of each of the companies, including the hiring of new staff; (v) a number of relevant individuals are no longer employed by South China; and (vi) South China has committed to avoiding future regulatory breaches. The failure to honour the undertaking will mean that South China will face severer penalties than they would have if penalties were imposed now. The agreement allows South China to orientate themselves towards good compliance and corporate governance. It also provides an assurance to the SFC that should South China re-offend, suspensions will be imposed following formal disciplinary proceedings.

Mr Mark Steward, the SFC's Executive Director of Enforcement, said: "Having taken remedial measures, South China has agreed to put its internal controls to the test in order to show its commitment to improving and maintaining its compliance culture. This is a positive outcome for the SFC and South China. However, the SFC will have no hesitation in imposing the suspensions if any of the entities breaches the undertaking".

Ends

Notes :

1. South China Research is licensed under the Securities and Futures Ordinance to carry on Type 4 (advising on securities) regulated activity.

South China Capital is licensed under the Securities and Futures Ordinance to carry on Type 6 (advising on corporate finance) regulated activity.

2. The Stock Exchange of Hong Kong refused the applicant's listing application.

3. Please refer to [SFC press releases dated 7 May 2007](#) for details.

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