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## Enforcement News

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### **Court upholds conviction against listed company chairman**

The Court of Final Appeal today dismissed an appeal by former chairman of Daido Group Ltd (Daido Group), To Shu Fai, against his conviction for providing false or misleading information to the Securities and Futures Commission (SFC) following a sudden rise in the turnover of Daido Group shares in 2003 (Note 1).

The conviction after trial was the first of its kind for providing false and misleading information under the dual filing regime.

To, who had failed in his appeal against the criminal conviction in the Court of First Instance in April 2007, took his case to the Court of Final Appeal on three points of law, including a challenge to the dual filing regime under the Securities and Futures Ordinance (SFO) (Note 2).

The appeal of To raised a serious question as to whether the SFC could take enforcement actions under the SFO against offences dealing with false or misleading statements in relation to announcements and information made by listed companies to the Stock Exchange of Hong Kong Ltd (SEHK).

Today's decision by the Court of Final Appeal confirms that the SFC is empowered to prosecute listed companies and their directors who make false or misleading statements to the market through the SEHK.

"The SFC welcomes the court's decision," the SFC's Executive Director of Enforcement, Mr Mark Steward said. "Listed companies and their directors should be under no illusions. Statements that they make to the market through the stock exchange must be accurate and truthful."

"Equally important is that this case provides authoritative confirmation that criminal prosecution is a real rather than theoretical risk. This decision will pave the way for more enforcement action, where appropriate, against listed companies and their directors who provide false or misleading information to the SFC or the SEHK," Mr Steward added.

End

Notes:

1. Please see SFC press release dated [12 April 2007](#) and [4 February 2008](#) for details of the prosecution and the decision by the Court of First Instance.
2. The conviction was in relation to false or misleading information provided to the SFC via the SEHK under the dual filing regime established under the SFO. Under the Securities and Futures (Stock Market Listing) Rules, a company is regarded as having provided information to the SFC if (a) it gives the information to the SEHK and (b) it has also authorised the SEHK to pass the information to the SFC.
3. The full judgement of the Court of Final Appeal is available on the [Judiciary's website](#)

([www.judiciary.gov.hk](http://www.judiciary.gov.hk), Court Reference: FACC No 3 of 2008).

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