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## SFC reprimands and fines Kingston \$500,000

5 May 2015

The Securities and Futures Commission (SFC) has reprimanded and fined Kingston Securities Limited (Kingston) \$500,000 for fitness and properness concerns (Notes 1 & 2).

The SFC found that on 19 January 2009, an employee of Kingston, while in Macao, opened accounts for 22 Macao residents and took orders and payment from these clients, who each bought one or three board lots of PCCW Limited (PCCW) shares (Note 3).

Since neither Kingston nor its employee involved was authorized by the Monetary Authority of Macao (AMCM) to conduct regulated activities, including opening securities accounts and taking orders for securities trading, in Macao, the conduct was in breach of the Financial System Act of Macao. In October 2014, the AMCM in its proceedings against Kingston made a final ruling to sanction and fine the firm MOP750,000 for its breach of the Financial System Act (Note 4).

Kingston's conduct has raised the SFC's concern over Kingston's fitness and properness as an SFC-licensed corporation.

The SFC considers that Kingston's contravention of the laws of Macao casts doubt on the firm's reputation, character and reliability because as an SFC-licensed corporation, the duty of Kingston to demonstrate these qualities is not only restricted to conduct in the Hong Kong market. It is also imperative for Kingston to respect and comply with rules of relevant regulatory authority and laws of relevant jurisdictions, particularly those where Kingston conducts its business activities (Note 5).

The SFC issued a circular to intermediaries in January 2014 to remind them about their obligations when conducting cross-border business, including the importance of ensuring compliance with all relevant laws and obligations (Note 6).

End

Notes:

1. Kingston is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) regulated activity.
2. Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.
3. The transactions in question involved PCCW shares that were later voted in the shareholders' meeting in early 2009 to consider the scheme of arrangement (scheme) proposing the delisting and privatisation of PCCW, and the scheme was subsequently withdrawn.
4. The conduct involving Kingston's employee at the time contravened the Financial System Act of Macao (Decree-Law no. 32/93/M, 5 July 1993) because Kingston did not have any authorization to carry on such a business in Macao. The final ruling by AMCM on Kingston was approved by the Secretary for Economy and Finance of Macao.
5. The SFC proceeded with its disciplinary action against Kingston following the final ruling by the AMCM in October 2014 against the firm.
6. Please see the circular titled "[Regulatory Compliance regarding Cross-border Business Activities](#)" dated 28 January 2014.

[A copy of the Statement of Disciplinary Action in relation to the matter is available on the SFC website](#)

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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Securities and Futures Commission (SFC) has publicly reprimanded Kingston Securities Limited (**Kingston**) and fined it a sum of \$500,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**) for conducting unauthorized financial activities in breach of the laws of Macao. Kingston is licensed under the SFO to carry on Type 1 (dealing in securities) regulated activity.
2. The disciplinary action is taken because Kingston had provided financial intermediary services in Macao without regulatory authorization contrary to Macanese law.

### Summary of facts

3. Licensed persons are required to satisfy the SFC that they are fit and proper to be licensed under the SFO. This is a continuous requirement. Among others, they need to demonstrate that they are persons of sound reputation, character and reliability.
4. General Principle (**GP**) 7 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**) states that a licensed corporation should comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market. Further, paragraph 12.1 of the Code of Conduct provides that a licensed corporation should comply with, and implement and maintain measures appropriate to ensuring compliance with, the law and relevant regulatory requirements.
5. The SFC found that on 19 January 2009, an employee of Kingston, while in Macao, opened accounts for 22 Macao residents, and took orders and payment from the 22 clients, who each bought one or three board lots of PCCW Limited shares.
6. This conduct contravened Article 118(1) of the Financial System Act of Macao because Kingston did not have any authorization to carry on such a business in Macao. **In October 2014, the Monetary Authority of Macao made a final ruling, approved by the Secretary for Economy and Finance of Macao, to sanction Kingston for its breach of the Financial System Act. Kingston was fined MOP 750,000 by the Macao authority.**

7. The SFC considers that Kingston's contravention of the laws of Macao has cast doubt on its reputation, character and reliability and constitutes a breach of GP7 and paragraph 12.1 of the Code of Conduct.

## **Conclusion**

8. As a licensed corporation, the duty of Kingston to demonstrate the qualities of sound reputation, character and reliability is not only restricted to its conduct in the Hong Kong market. It is also imperative for it to respect and comply with rules of relevant regulatory authority and laws of relevant jurisdictions, particularly those where Kingston conduct its business activities.
9. In coming to the decision to take disciplinary action against Kingston, the SFC has taken into account that:
  - (a) demonstrating sound reputation, character and reliability is fundamental to the fitness and properness of a licensed corporation;
  - (b) a clear message needs to be sent to the market that it is imperative for a licensed corporation to comply with all requirements of any regulatory authority and any local laws and regulations that are applicable to it;
  - (c) Kingston was sanctioned and fined MOP750,000 by AMCM for breaching the laws of Macao;
  - (d) the accounts of the 22 Macao clients have already been closed and such clients no longer maintain any securities or balance with Kingston; and
  - (e) Kingston has no previous disciplinary record with the SFC.