

[Home](#) ▶ [News & announcements](#) ▶ [News](#) ▶ [Enforcement news](#)

SFC Commences Action in High Court Tackling Grey Markets

31 Mar 2008

The SFC has commenced a proceeding in the Court of First Instance of the High Court seeking orders restraining certain unlicensed persons from dealing in grey market securities and seeking a declaration that such dealings are a regulated activity under the Securities and Futures Ordinance (Note 1).

The SFC's action concerns the activities of two unlicensed individuals, Chow Ngai Keung Alex and Siu Sum Fung Christopher and an unlicensed company, Mega Dragon Group Limited (now deregistered) (Note 2).

The SFC alleges that they had been involved in a scheme offering H shares of Bank of China Limited (BoC) since March 2006 up to 1 June 2006 when BoC H shares were listed on the Stock Exchange of Hong Kong (Note 3).

This kind of alleged trading of securities prior to the time when they are traded publicly on a stock exchange is called "grey market" trading (Note 4).

The SFC contends that any person carrying on a business of offering shares in a "grey market" must be licensed by the SFC and comply with the obligations of a licensee under the SFO and under the Code of Conduct for Persons Licensed by or Registered with the SFC (Note 5).

Ends

Notes:

1. The SFO prescribes certain types of activities to be "regulated activities". A person who carries on a business in "dealing in securities" is defined by the SFO to be a person undertaking a "regulated activity". The SFC will argue that carrying on a grey market trading business is activity for which a licence is required. SFC licensees are required to comply with appropriate standards of conduct, including the requirements of the Code of Conduct for Persons Licensed by or Registered with the SFC.
2. As Mega Dragon has been deregistered, it is not a party to the proceedings.
3. The listing of BoC on the Stock Exchange of Hong Kong was one of the biggest IPOs in the world. It was heavily over-subscribed.
4. The regulatory issues surrounding grey markets were raised recently in a Court of Appeal case, *Woo Hing Keung Lawrence v CEF Brokerage Limited* (CACV 148/2007) in a judgment published on 19 March 2008. This decision did not deal with the issue of unlicensed persons engaging in grey market activity.
5. The obligations of a licensee under the Code of Conduct include obligations of honesty, fairness, diligence, a requirement to know a client's financial needs, to avoid conflicts of interest and to act in the best interests of the client and the integrity of the market. The SFC is able to take disciplinary action against licensees who breach the Code of Conduct.

Page last updated : 1 Aug 2012