

Press release

LCQ5: Withdrawal of Hong Kong Mercantile Exchange Limited's automated trading services authorisation

Wednesday, May 29, 2013

Following is a question by the Hon Christopher Cheung and a reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (May 29):

Question:

The Securities and Futures Commission (SFC) announced on May 18 this year that it had received notification from Hong Kong Mercantile Exchange Limited (HKMEx) of its decision to surrender its authorisation to provide automated trading services (the authorisation) after considering that its trading revenues had been insufficient to support its operating expenses. As authorised automated trading services providers must have sufficient financial resources, SFC therefore withdrew HKMEx's authorisation with immediate effect pursuant to the relevant rules. In this connection, will the Government inform this Council if it knows:

(a) when SFC became aware of HKMEx not having sufficient financial resources; and

(b) whether, in the past, there were other financial institutions which had, on their own volition, surrendered their authorisations or licences for conducting securities and futures businesses due to failure to meet the relevant requirements; if so, of the details; as the Chairman of HKMEx has reportedly said that HKMEx will complete a rights issue to raise funds in the amount of US\$100 million by the end of June for HKMEx to resume operation, whether a financial institution, for which SFC has withdrawn the authorisation, may have its licence restored automatically without the need to re-apply for the licence; if it may, of the details?

Reply:

President,

On May 18, 2013, the Securities and Futures Commission (SFC) announced that the Hong Kong Mercantile Exchange Limited (HKMEx) had notified the SFC of its decision to surrender its authorisation to provide automated trading services (ATS) after it considered that the trading revenues had not been sufficient to support its operating

expenses. An authorised ATS provider must have financial resources sufficient for the proper performance of its functions and obligations. In the circumstances, the SFC had issued a formal notice of withdrawal of HKMEx's authorisation pursuant to section 98 of the Securities and Futures Ordinance (SFO). The withdrawal took immediate effect. The SFC issued a press release on this on the same day.

On May 21, 2013, the SFC issued a further statement on the withdrawal of HKMEx's ATS authorisation, indicating that the SFC had initiated an investigation into suspected irregularities in the financial affairs of the HKMEx, and referred certain matters to the Commercial Crime Bureau (CCB) of the Police as the suspected irregularities are serious ones. The SFC indicated that it would continue its investigation and would cooperate fully with the CCB. The two press releases issued by the SFC are attached to this main reply for Members' reference.

I understand the Hon Cheung's concerns over the case in question. However, as the investigations by the SFC and CCB are on-going, it is not appropriate for me to make any specific comment on the case. That said, having consulted the SFC, I would provide some general information for reference.

An ATS provider is someone who provides an electronic platform on which financial products may be traded or cleared. In general, an authorised ATS provider will be required to have sufficient financial resources for the proper performance of its functions and obligations. As to what constitutes sufficient financial resources, the SFC will take into consideration key factors such as the projected expenditure of the ATS operation from time to time, which in turn will be affected by the size and characteristics of the trading platform and the markets traded on the platform. It follows that the financial resources required may change over time as the size and characteristics of the ATS operation changes.

According to the SFC, there have been no other cases of authorised ATS providers failing to meet financial requirements so far.

With reference to the case of the HKMEx, the Hon Cheung has raised in his question as to whether a financial institution, for which SFC has withdrawn the authorisation, may have its licence restored automatically without the need to re-apply for the licence. The SFC has pointed out that it is not appropriate to comment on matters specific to the HKMEx as investigations by the SFC and CCB are still afoot. In general, however, once an ATS authorisation is revoked, an application for the same authorisation would be treated as a fresh application. The SFC will look at the merits of

each application and take into account all relevant factors, including all information in its possession. The same approach is adopted vis-à-vis licensed persons.

Ends