

Press Release

LCQ12: Regulation of listed companies

Wednesday, November 5, 2014

Following is a question by the Hon Christopher Cheung and a written reply by the Acting Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (November 5):

Question:

Although the Securities and Futures Commission (SFC) has, in recent years, strived for maintaining the order of financial markets and enhancing protection for small investors, some small investors have expressed dissatisfaction with SFC's handling of problematic listed companies. In this connection, will the Government inform this Council:

(1) of the total number of complaints received by the authorities in the past five years which were made by investors due to dissatisfaction with SFC's handling of listed companies, with a breakdown by nature of the complaints;

(2) whether it knows the current number of listed companies whose securities were suspended from trading (suspension) at SFC's direction, with a breakdown by the duration of suspension so far and the reasons for suspension; among them, the number of cases in which the suspension decisions were not consistent with the earlier decisions of the Stock Exchange of Hong Kong (SEHK) and the details of such cases; whether SFC will review its division of work with SEHK in respect of the regulation of listed companies in order that investors will not get confused or suffer unnecessary losses;

(3) whether it will request SFC to (i) review the existing arrangements with a view to setting a time limit for suspension and providing the public with regular updates (including the progress of relevant investigations) on long-standing suspension cases so as to reduce the anxiety and dissatisfaction of the affected investors, and (ii) take measures to prevent investors' interests from being undermined as a result of the reduction in the asset value of the listed companies concerned during suspension; and

(4) whether it knows if SFC presented in the past five years any petition to the

Court under section 212 of the Securities and Futures Ordinance (Cap. 571) for a listed company to be wound up; of the criteria for presenting such petitions, and how it explained to the public that such a move could protect the best interest of the public and small investors?

Reply:

President,

(1) In the past five years, the Administration received a total of 10 complaints involving dissatisfaction with the Securities and Futures Commission (SFC)'s handling of listed companies. The complaints raised mainly the concern that the SFC has not regulated listed companies properly, and / or the SFC has failed to provide satisfactory responses to the complaints.

(2) Generally speaking, suspensions are usually requested by individual companies or imposed by the Stock Exchange of Hong Kong (SEHK). It is relatively less common for the SFC to impose suspension.

According to the information provided by the SFC, there are two companies that are currently suspended by the SFC under sub-rule 8 (1) of the Securities and Futures (Stock Market Listing) Rules (the Rules). The Rules provide that suspensions may be invoked in a number of instances, including where it appears the company has included false or misleading material in any document it has issued to the market, or where it is necessary to maintain a fair market or to protect the investing public. The Rules permit the company to make representations to the SFC, and for the SFC to lift the suspension or to cancel the listing.

The SFC will not comment publicly on the circumstances of these companies under suspension.

(3) Together with the SEHK, the SFC considered the issue of prolonged suspension in mid-2013. This led to the revised Prolonged Suspension Status Report which is issued regularly on the HKExnews website (www.hkexnews.hk) to provide investors with the latest information concerning companies under suspension. The report summarises the status of companies which have been suspended for three months or more, and sets out

clearly what a company has to do in order for a suspension imposed by the SEHK to be lifted. For each of the individual cases, the report also provides the major developments concerning the relevant companies based on the companies' announcements and the outstanding issues involved.

(4) Section 212 of the Securities and Futures Ordinance provides that the SFC may present a petition for a company to be wound up and the court will appoint a liquidator. However, this is usually a last resort step where there is sufficient evidence to believe the company's affairs are being conducted in a fraudulent manner to protect the company's shareholders and creditors. So far, the SFC has used this provision once and the proceedings of the relevant case are still ongoing. The court has appointed a provisional liquidator to the company to preserve and protect the interests of the minority shareholders and the creditors pending a full hearing. The SFC is unable to make any further comment about this case while it is before the court.

Ends