

# Market participants urged to comply with short position reporting

9 Oct 2014

The Securities and Futures Commission (SFC) today reminds all market participants to comply with the requirements under the Short Position Reporting Regime (Regime) after the SFC has identified deficiencies and shortcomings since the implementation of the Securities and Futures (Short Position Reporting) Rules (Rules) (Note 1).

Market participants should be aware that a contravention of the Rules without reasonable excuse may constitute a criminal offence and may call into question the adequacy of internal controls of SFC-licensed corporations (Note 2).

Since the commencement of the Regime in June 2012, the SFC found that some market participants were late in filing reports on their short positions as required by the Rules due to oversight or delays arising from change of personnel or overseas public holidays. The SFC does not regard any of these lapses as reasonable excuses. Market participants should have appropriate procedures in place to cope with every eventuality to ensure compliance with the Rules.

In some cases where market participants have appointed agents to report short positions on their behalf, the reports have been either inaccurate or late. Market participants should note that a person who has a reportable short position remains legally responsible even if the appointed agent fails to comply with the Rules.

Market participants who wish to appoint agents to report short positions on their behalf should ensure that their appointed agents have the necessary expertise and sufficient operational capacity to do so, and should monitor their agents' performance on a regular basis.

Obvious errors were also noted in reports filed by some market participants, indicating that they had failed to check their reportable short positions before submitting their reports to the SFC (such as making the effort to verify significant changes in short positions from previous reports). The SFC expects that proper care be exercised in calculating reportable short positions to ensure the accuracy of information contained in reports. An SFC-licensed corporation may also face disciplinary action for any failure to take proper care to ensure reports are accurate.

Market participants should have measures in place to ensure accurate and timely reporting of short positions. The SFC will continue to take appropriate action in respect of any failure to comply with the Rules.

End

Notes:

1. The Securities and Futures (Short Position Reporting) Rules can be viewed online via Hong Kong's Department of Justice Bilingual Laws Information System: <http://www.legislation.gov.hk/eng/home.htm>
2. Under the Securities and Futures (Offences and Penalties) Regulation, any person who, without reasonable excuse, contravenes Rule 4(2) or Rule 4(4) of the Securities and Futures (Short Position Reporting) Rules commits an offence and is liable on conviction to a maximum penalty of \$100,000 fine and two years' imprisonment.

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