
Enforcement Actions

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7 March 2006

SFC Takes Action Against CSC Asia Limited, Mr Chiu Chi Kin Andrew and Mr Tang Ho Wai Howard

The SFC has taken action against CSC Asia Limited ("CSC") and its responsible officers, Mr Chiu Chi Kin Andrew ("Mr Chiu") and Mr Tang Ho Wai Howard ("Mr Tang") for their failures to comply with the Code of Conduct for Persons Licensed by or Registered with the SFC (the "Code of Conduct"). CSC has voluntarily undertaken not to act as a sponsor for any new listing application on both the Main Board and the GEM Board for a period of 13 months with effect from 7 March 2006, and Mr Chiu and Mr Tang have agreed to voluntarily undertake not to act as principal supervisors of CSC for any new listing application for a period of 8 months from 7 March 2006 (Notes 1 & 2).

The outcome is the result of a settlement between the SFC and CSC, Mr Chiu and Mr Tang. The SFC and HKEx have cooperated extensively in settling this action (Note 3).

The settlement stems from an SFC inspection of the business operations of CSC in early 2005. During the inspection, two listing applications of which CSC was the sponsor were reviewed. The SFC found that CSC had failed to comply with various requirements under the Code of Conduct by failing to act with due skill, care and diligence when performing due diligence into the two listing applications and to ensure that the prospectuses and the submissions made to HKEx were prepared to the required standard. Mr Chiu and Mr Tang were the respective principal supervisors of the two listing applications.

First Listing Application

In the First Listing Application, the SFC found that CSC (as sponsor) and Mr Tang (as principal supervisor) either had not paid sufficient attention to the recommendations of their professional advisers or did not perform adequate due

diligence work in a number of areas, including:

- the major suppliers and major customers of the listing applicant;
- the relationship between the directors and shareholders of the listing applicant and one of its suppliers;
- whether the listing applicant has complied with applicable PRC regulations in respect of social insurance;
- the renewal of the business licence of the previous owner of a subsidiary of the listing applicant and therefore the capacity of this party in entering into a contract affecting the subsidiary in question; and
- the expiry date of the approval certificates of a number of major products of the listing applicant which certificates were required before the products could be sold.

Second Listing Application

In the Second Listing Application, the SFC found that CSC (as sponsor) and Mr Chiu (as principal supervisor) did not perform adequate additional due diligence work in a number of areas, including:

- the continuous ownership requirement of 24 months under the GEM Listing Rules in respect of the founders of the listing applicants;
- the ‘related-party’ relationship of the listing applicant with its agents; and
- the disclosure of the ‘connected’ relationship between the listing applicant and its major customers.

For the avoidance of doubt, the Second Listing Application has lapsed.

Internal control weaknesses of CSC

In addition to the failings in conducting due diligence for the above two listing applications, the SFC also found the following internal control deficiencies of CSC:

- CSC did not keep an adequate audit trail of their work by failing to record

their discussions and resolutions in relation to due diligence work and prospectus disclosure made in their meetings;

- some staff members of CSC were named as principal supervisors and assistant supervisors but they were not sufficiently involved in the preparation for listing;
- CSC failed to prepare a detailed due diligence plan setting out division of work before commencing the due diligence exercise; and
- CSC failed to provide sufficient training to its new staff.

CSC, Mr Chiu and Mr Tang acknowledge SFC's concerns and regret that the matters set out above have occurred.

SFC's decision

The SFC concludes that CSC, Mr Chiu and Mr Tang have been guilty of misconduct and their fitness and properness have been called into question. In determining the sanctions, the SFC has taken into account that:

- they co-operated with the SFC and accepted a resolution of the disciplinary action by settlement; and
- CSC has agreed to commission an accounting firm to conduct a comprehensive review of its operations and procedures.

The SFC considers the settlement to be in the interest of the investing public and in the public interest.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Sponsors play a pivotal role in the Hong Kong stock market in that they are responsible for ensuring all relevant information has been disclosed in the prospectuses by listing applicants in an accurate and complete manner so that investors can make informed decisions as to whether to invest in the listed securities. The regulators and the investing public expect sponsors to exercise a high standard of professionalism when sponsoring listing applications. Sponsors must take reasonable care to ensure that the statements made in any submission and draft prospectus are complete and accurate before they submit them to the SFC and HKEx. They should not rely on

the SFC or HKEx to verify the contents of the prospectus. They must examine information provided by the listing applicants with professional scepticism. When issues or concerns are raised by professional advisers, the sponsors also have a duty to follow up with them. When there is any reasonable doubt as to the accuracy of a statement, the sponsor must not include it in the prospectus since it is a public document which will be read and relied upon by the public.”

“The present case shows that CSC, Andrew Chiu and Howard Tang had acted negligently when they submitted the two listing applications to HKEx. They failed to take reasonable care to ensure that the contents of the prospectuses and submissions were accurate and complete. This is unacceptable. In recent years, several failed listed companies caused serious losses to investors. They also affected the reputation of Hong Kong as an international financial centre. The SFC will continue to take tough action against sponsors who failed to comply with relevant regulations applicable to them, in particular, the Code of Conduct, the Corporate Finance Adviser Code of Conduct, Practice Note 21 to the Main Board Listing Rules and Practice Note 2 to the GEM Listing Rules in relation to due diligence by sponsors,” Mr Linning said.

Ends

Notes:

1. CSC Asia Limited is a licensed corporation authorised to carry on Type 6 (advising on corporate finance) regulated activity. Mr Chiu is a responsible officer of CSC and is licensed to carry on Type 1 (dealing in securities) and Type 6 (advising on corporate finance) regulated activities. Mr Tang is a responsible officer of CSC and is licensed to carry on Type 6 (advising on corporate finance) regulated activity.
2. To avoid prejudicing the interests of CSC’s clients, CSC may act as sponsor in one Main Board listing application which it handled since early 2005.
3. Please refer to HKEx’s press release available at <http://www.hkex.com.hk/>.

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