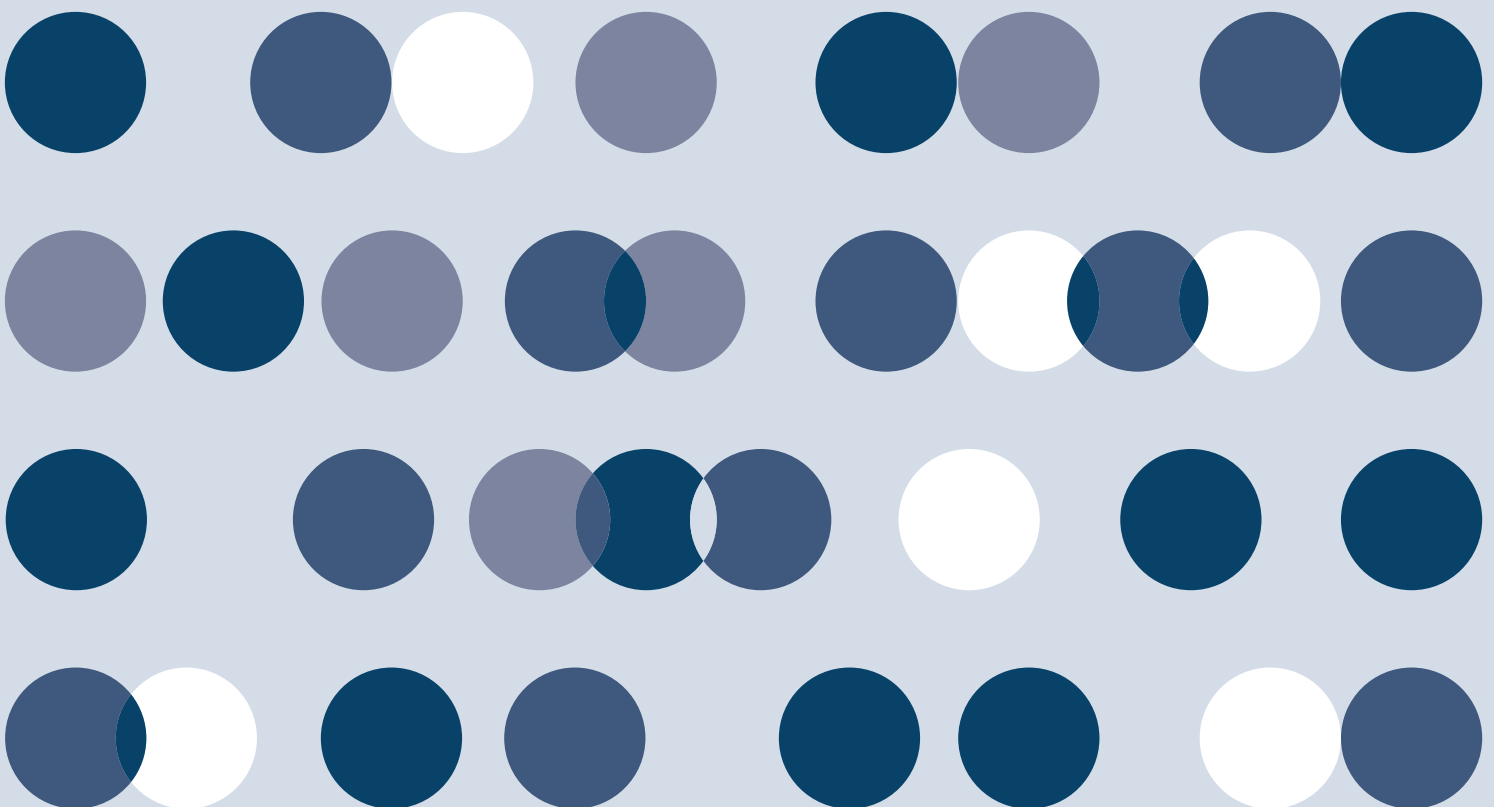


July 2018

ENFORCEMENT NEWSLETTER
FOR SIX MONTHS ENDED 30 JUNE 2018



INTRODUCTION

In this third edition of our *Enforcement Newsletter* we take as our focus the roles and responsibilities of the non-executive and independent non-executive directors of listed issuers in Hong Kong. The Enforcement experience has been that often non-executive directors and independent non-executive directors place too much reliance on executive directors and/or management of the issuer without question, and do not appear to understand the importance of their role in promoting good corporate governance.

In a short article below we seek to explain the Exchange's expectations of those non-executive directors and to re-emphasise the obligations and responsibilities to which they are subject under the Listing Rules.

Also included below is a follow-up article from "Delisting from an Enforcement Perspective" featured in the February 2018 issue of the Newsletter. The article talks about the new delisting regime, which will become effective on 1 August 2018.

The summaries included in the "Disciplinary Actions" section of this Newsletter provide further examples of cases where the Exchange has pursued disciplinary actions in respect of conduct by directors (both executive and non-executive) because their conduct has fallen short of the standards they are expected to meet.

The above is followed by the regular sections on "Enforcement Statistics", "Other Information on Regulatory Activities", "Disciplinary Actions" and "Compliance Highlights".

We hope that you enjoy reading this Newsletter.

“I RELIED ON THE EXECUTIVE DIRECTORS”

This is a common argument made by non-executive directors when breaches of the Listing Rules occur. This article will discuss the roles and responsibilities of non-executive members of the board, and the Listing Committee’s considerations in disciplinary actions against them.

The starting point under both Hong Kong law and the Listing Rules is that there is no distinction between the roles of executive directors, non-executive directors and independent non-executive directors. All directors have a duty to exercise reasonable care, skill and diligence, to the standard of a hypothetical reasonably diligent person carrying out the same functions on behalf of the company. If a director possesses greater personal general knowledge, skill and experience than the hypothetical reasonably diligent person, the standard required will be higher. An example of this would be an independent non-executive director in the audit committee who is an accountant or a financial expert.

Whilst the legal duty itself is the same for all directors, regardless of whether they are executive or non-executive directors, the manner in which the duty is discharged may potentially be different. Indeed, the Market Misconduct Tribunal has summarised the practical distinction between the way in which executive directors and non-executive directors discharge their functions in the *Greencool* case.¹ Executive directors, usually as employees, discharge executive functions in the management and administration of a company. Non-executive directors are usually independent of corporate management and administration, their duties being performed at periodic board meetings and at meetings of any committees of the board.²

All directors are expected to take a diligent and intelligent interest in the listed issuer’s affairs and the information available to them, to understand that information, and to apply an enquiring mind to the responsibilities placed upon them. It is not merely a box ticking or spell checking exercise, particularly where it involves important matters falling specifically within the board’s responsibilities. As an example, in the context of IPOs, all directors, including non-executive directors, are expected to read the prospectus and to satisfy themselves that the contents are accurate and complete in all material respects and not misleading.

¹ *Report of the Market Misconduct Tribunal into dealings in the shares of Greencool Technology Holdings Limited between 2001 and 2005*, 24 January 2018.

² *Ibid*, footnote 1.

Of course, directors are not expected to have infinite knowledge or ability. Delegation is permitted. However, they cannot discharge their duties by simple adoption of, and blind reliance on, the work of such parties. Delegation does not absolve directors from their duty to supervise the discharge of the delegated functions, for which they, both collectively and individually, retain ultimate responsibility.

The extent of supervision a director is expected to undertake will vary according to the facts of the case, and consideration will be given to factors such as the kind of business carried out by the company, the size of the company, and the nature and extent of the delegation.

“THERE WAS NO REASON FOR US TO SUSPECT ANYTHING WAS WRONG”

Non-executive directors have an obligation to exercise their skill and independent judgment to bring about good corporate governance and be vigilant regarding potential misconduct. It is therefore critical for non-executive directors to carry out their own independent assessment and seek further information if necessary. Non-executive directors should be prepared to challenge other directors, regardless of how dominant they are. They must also follow up anything untoward that comes to their attention.

In disciplinary proceedings, one of the issues that is often under the spotlight is whether non-executive directors have demonstrated that they exercised their own independent judgment, for example, by raising questions of the executive directors, management or professional parties, by asking the executive directors to obtain independent and/or professional advice, or by taking other positive steps to make their own enquiries about the issues at hand.

What about the obligations of independent non-executive directors as members of board committees such as the audit committee? These obligations include monitoring the integrity of the issuer’s financial statements, annual report and accounts, and reviewing significant financial reporting judgements contained in them. The audit committee should also ensure that adequate internal control systems and procedures are in place, and that these are reviewed regularly.

In summary, non-executive members of the board play an important role in the operation of companies listed on the Exchange. Far from mere window dressing, they must make a positive contribution to the company by asking questions, requesting documents, and familiarising themselves with the company's business so that they can properly monitor, guide and scrutinise its operations. The core obligations and responsibilities are the same for executive and non-executive directors. As each case will turn on its own facts, in disciplinary proceedings, factors such as the type of company, the nature of the breach, the conduct, and the knowledge, skill and experience of the director in question will be examined.

THE NEW DELISTING REGIME

As mentioned in “Delisting from an Enforcement Perspective” published in the second issue of the Newsletter (February 2018), delisting is one of the Exchange’s regulatory tools for achieving its principle objective to provide an orderly, informed and fair market for the trading of securities. A robust delisting policy with an effective delisting procedure will facilitate the Exchange’s goal in maintaining the quality and reputation of our securities market.

In September 2017, the Exchange published a consultation paper on Delisting and other Rule Amendments, which presented proposals to improve the effectiveness of the delisting framework under the Listing Rules. The [Consultation Conclusions](#) were published on 25 May 2018, together with a [Guidance Letter on Long Suspension and Delisting](#) and the relevant amendments to the Listing Rules ([Main Board](#) and [GEM](#)).

The Exchange believes that these policy changes address developments in the market and international best practices, and also represent acceptable standards that help ensure investor confidence.

The new Listing Rules relating to the new delisting regime will become effective on 1 August 2018.

ENFORCEMENT STATISTICS

The [Enforcement Statistics](#) for the six months ended 30 June 2018 were published on the HKEX website on 20 July 2018.

(1) Investigations Statistics

This table shows the number of parties and rule breaches involved in the investigations carried out by Listing Enforcement of the Stock Exchange during the course of the first six months of the year as compared to the previous year.

	Six months ended 30/6/2018 ⁽¹⁾			Six months ended 30/6/2017 ⁽¹⁾		
	MB	GEM	Total	MB	GEM	Total
Investigations	57	20	77	54	15	69
Cases involving:						
Company	53	17	70	46	14	60
Current directors ⁽²⁾	11	10	21	14	4	18
Former directors ⁽²⁾	22	12	34	18	8	26
3 Listing Rule breaches (or less)	35	12	47	31	9	40
More than 3 Listing Rule breaches	22	8	30	23	6	29
Investigations involving, and referrals to, other regulators ⁽³⁾	29	6	35	27	4	31

⁽¹⁾ Figures cover investigations concluded during the period and investigations which remained active as at the end of the period.

⁽²⁾ Figures may include directors residing overseas.

⁽³⁾ Other regulators include regulators such as the Securities and Futures Commission (SFC), Independent Commission against Corruption, Financial Reporting Council and the Commercial Crime Bureau. Referrals do not include those made to the SFC which do not arise out of an investigation for potential breach of the Listing Rules or those matters specifically under the remit of the SFC's jurisdiction e.g. referrals made under the Inside Information Provisions in Part XIVA of the Securities and Futures Ordinance.

(2) Issues under Investigation

Since 2014 the Stock Exchange has been adopting a themed approach to enforcement activity. Following a review, the Listing Committee has modified the focus for investigation and enforcement action from five to the following seven themes. Notwithstanding this themed approach to investigation, the Exchange will continue to pursue any other breaches of the Listing Rules that may demonstrate sufficiently egregious conduct beyond the scope of the themes.

ISSUES	Six months ended 30/6/2018 ⁽¹⁾			Six months ended 30/6/2017 ⁽¹⁾		
	MB	GEM	Total	MB	GEM	Total
CORE THEMES⁽²⁾						
(1) Directors' duties	17	5	22	7	3	10
(2) Failure to cooperate with an Exchange investigation	4	1	5	6	1	7
(3) Inaccurate, incomplete and/or misleading disclosure in corporate communication	3	1	4	1	1	2
(4) Failure to comply with procedural requirements in respect of notifiable/connected transactions	5	0	5	5	1	6
(5) Repeated breaches of the Listing Rules	0	1	1	0	0	0
(6) Delayed trading resumption	0	0	0	0	0	0
(7) Financial reporting - delays, or internal controls and corporate governance issues	1	0	1	1	0	1
MULTIPLE THEMES⁽³⁾						
OTHERS						
Other Listing Rules not falling into any of the above categories	4	2	6	8	1	9

⁽¹⁾ Figures cover investigations concluded during the period and investigations which remained active as at the end of the period.

⁽²⁾ Core themes represent those that are the main focus of an investigation (whether or not it involves other issues). An investigation covering more than one core theme will be disclosed under "Multiple Themes".

⁽³⁾ Number of investigations under "Multiple Themes" involving Theme (1) for the six months ended 30 June 2018: (2018: 25; 2017: 28); Theme (2): (2018: 2; 2017: 2); Theme (3): (2018: 14; 2017: 18); Theme 4: (2018: 18; 2017: 15); Theme 5: (2018: 7; 2017: 5); Theme 6: (2018: 2; 2017: 1) and Theme 7: (2018: 13; 2017: 11).

(3) Outcome of Enforcement Actions by Listing Committee

	Six months ended 30/6/2018			Six months ended 30/6/2017		
	MB	GEM	Total	MB	GEM	Total
Sanctions imposed ⁽¹⁾						
Public censures	7	4	11	3	0	3
Public statements involving criticism	0	0	0	0	0	0
Other public statements ⁽²⁾	0	1	1	0	0	0
Private reprimands	0	0	0	0	0	0
Directions involving ⁽³⁾ :						
Internal Control Review	0	0	0	0	0	0
Retention of Compliance Advisor	0	3	3	1	0	1
Training of Directors	2	3	5	2	0	2
Average time for completion of an investigation (from commencement of investigation to the decision as to the regulatory action to be taken) was 8.7 months for cases investigation of which was completed in the first six months of 2018.						

⁽¹⁾ These figures represent the primary regulatory sanction imposed in a disciplinary action and save for (2) below, do not include other sanctions that may be imposed in the same action. See "Other Information on Regulatory Activities" below for statistics on the number of warning and caution/guidance letters issued by the Listing Department.

⁽²⁾ Include Rule 2A.09(7) statement (GEM: GEM Listing Rule 3.10(7)) where, in the case of wilful or persistent failure by a director to discharge his responsibilities under the Listing Rules, the Exchange states its opinion that the retention of office by that director is prejudicial to the interests of investors; and also where the Listing Committee expresses its views that it would be minded to make such a statement had the resigned director stayed in office. These figures are in addition to and do not form part of the total number of primary regulatory sanctions imposed.

⁽³⁾ These figures represent the total number of directions given in addition to the primary regulatory sanction imposed in a disciplinary action.

(4) Number of Directors Subject to Disciplinary Sanctions

	Six months ended 30/6/2018			Six months ended 30/6/2017		
	MB	GEM	Total	MB	GEM	Total
Executive directors	13	23	36	9	0	9
Non-executive directors	1	4	5	2	0	2
Independent non-executive directors	6	13	19	0	0	0
Total	20	40	60	11	0	11

OTHER INFORMATION ON REGULATORY ACTIVITIES

(A) Disciplinary proceedings

- Number of disciplinary reports issued during the six months ended 30 June 2018: 6
- Number of disciplinary actions pending hearings/reviews as at 30 June 2018 (the outcome of the disciplinary action will only be published if public sanctions are made at the conclusion of the hearing/final review): 5
- Number of issuers and directors involved in ongoing and concluded disciplinary actions in the first six months of 2018 were 10 and 83 respectively.

(B) Information on delisting and cancellation

- [Status Report on Delisting Proceedings and Suspensions](#) for the six months ended 30 June 2018
- [Monthly Prolonged Suspension Status Report](#) as at 30 June 2018

(C) Interaction with other law enforcement authorities

- Number of referrals made by the Listing Department to Securities and Futures Commission (SFC), Independent Commission Against Corruption (ICAC) or Commercial Crime Bureau (CCB) during the six months ended 30 June 2018 (arising out of an enquiry/ investigation for potential breach of the Listing Rules but excluding those involving solely possible breach of the Inside Information provisions of the Securities and Futures Ordinance): 16
- Number of witness statements given by the Listing Department's personnel in relation to investigations of SFC, ICAC or CCB during the six months ended 30 June 2018: 1
- Number of information and document production requests handled by the Listing Department in relation to investigations of SFC, ICAC or CCB during the six months ended 30 June 2018: 42

(D) Warning and caution/guidance letters issued by the Listing Department during the six months ended 30 June 2018: 167

DISCIPLINARY ACTIONS

During the first six months of 2018, the Listing Committee of the Exchange issued 11 news releases in respect of the outcome of the following disciplinary proceedings.

As always, the common and recurring issues arising from most of these cases are: (1) directors' duties; (2) internal controls; and (3) the role and duties of compliance officer.

Having an adequate and effective internal control system goes a long way towards maintaining good corporate governance and complying with the Listing Rules by the listed issuers. One size doesn't fit all. All directors, executive and non-executive, must take an active interest in the affairs of the issuer and be involved in the creation and maintenance of adequate and effective internal controls within the issuer, having regard to the factors relevant to the issuer, including the nature of the business and the nature and extent of the risks the issuer is willing to take in achieving its strategic objectives.

Whilst every member of the board has responsibility to ensure the issuer's compliance, the GEM Listing Rules place specific compliance related responsibility on the executive director who is appointed as the compliance officer. It is not a mere box ticking exercise to just appoint one of the executive directors to take up that role. Several of the disciplinary actions below bear witness to the possible consequences for a compliance officer who failed to discharge those responsibilities.

Issuers and directors are encouraged to read the news releases of the disciplinary actions and the key messages, as they convey the Exchange's continuing expectations of issuers and directors in relation to compliance with the Listing Rules.

RCG Holdings Limited (now known as China e-Wallet Payment Group Limited, stock code: 802)
[News release](#) of 22 January 2018

This case concerns the issuer's failure to ensure that the information contained in the announcement of its interim results for the six months ended 30 June 2015 was accurate and complete in all material respects and not misleading.

The 2015 interim results contained an error made on the recognition of the issuer's investments in listed securities because the statements relating to those investments were missing. The error resulted in a restatement of the issuer's profit for the first six months of 2015 from a net loss of \$12 million to \$281.5 million profit. The error was not detected by the directors, as Mr Wang (executive director and chief executive officer of the issuer) who had been the one solely responsible for the relevant investments was on sick leave for a period of time. Mr Wang agreed with Mr Li (executive and managing director) that Mr Wang would only focus on managing the investments during his absence. The other directors were not aware of Mr Wang's sick leave or the work arrangement.

The statements relating to the investments were mailed by Mr Wang to the Company. However, they were lost in transit, which no one knew about. Whilst Mr Wang was in hospital, the board approved the 2015 interim results without detecting the error relating to the investments. It was not until after the publication of the 2015 interim results that the error was discovered by Mr Wang and the profit reinstatement was subsequently made.

The Listing Committee found that: (1) the Company was in breach of Rule 2.13(2) by way of the error made in its 2015 interim results; (2) the Company had inadequate internal control system to prevent its breach of the Listing Rules (there was no effective system to enable the board to monitor the investments carried out by Mr Wang, and no checks and balances were put in place on how Mr Wang managed them); and (3) six executive and independent non-executive directors, including Mr Wang and Mr Li, were in breach of their directors' duties under Rule 3.08(f) and their respective Undertakings given to the Exchange. In particular, each of the independent non-executive directors failed to discharge his duties as director and audit committee member of the issuer.

Themes:

- (1) Directors' duties
- (2) Inaccurate, incomplete and/or misleading disclosure in corporate communication

Key messages:

- Importance of adequate and effective internal controls, including appropriate measures to manage and monitor the reporting of the issuer's financial information to its management; to prevent over-reliance on one individual having complete oversight and control over the issuer's major businesses without regular reporting to the board.
- Lack of adequate and effective internal controls may result in the issuer's breach of the Listing Rules.
- It is imperative that the issuer and directors take steps to implement and maintain adequate and effective internal controls for procuring the issuer's compliance with the Listing Rules.

Mr Chen Jing, former executive director of TC Orient Lighting Holdings Limited (stock code: 515)
[News release](#) of 30 January 2018

From October 2014 to April 2015, Mr Chen Jing (executive director and chairman at the time) caused the issuer and its subsidiaries to provide guarantees and indemnities for the benefit of Mr Chen and a company in which he had a personal interest.

Those guarantees and indemnities did not provide any commercial interests/benefits to the issuer and were not disclosed by Mr Chen, despite his personal interests, to the issuer at the relevant time.

The issuer discovered the guarantees and indemnities on 29 April 2015 and announced them on the next day.

Themes:

(1) Director's duties

Key messages:

- Directors are accountable to the issuer and its shareholders for their conduct. They have an obligation to, among others: (a) ensure the issuer enters into transactions that are in the issuer's interests; (b) avoid any potential or actual conflict of interests; and (c) procure the issuer to disclose and obtain shareholders' approval (where required) for notifiable transactions.
- Directors must not take advantage of their position or abuse their powers for potential interests and gains.

Certain executive and independent non-executive directors of Changhong Jiahua Holdings Limited (stock code: 8016)
[News release](#) of 27 March 2018

The GEM Listing Committee imposed public sanctions against 12 current and former executive and independent non-executive directors in this disciplinary action for their failure to apply their minds and take steps to ensure that the issuer's internal controls were properly implemented.

The issuer's principal subsidiary was engaged in the trading of consumer electrical products, which was the single business segment of the issuer between 2006 and 2012. In June 2013, the board resolved to focus on its newly acquired information technology business and downsize the trading business. The downsizing of the principal subsidiary's business operation included the reduction of staff between 2013 and 2015, which had the result of impairing the pre-existing checks and balances, and segregation of duties put in place in the subsidiary's internal controls. This in turn resulted in an employee being able to override the internal controls and perpetrate the suspected misappropriation of the subsidiary's assets (announced by the issuer on 19 June 2015).

Further, the issuer's executive director and chairman, Mr Zhao, persistently failed to attend board and general meetings, falling short of the care, skill and diligence expected of him under GEM Listing Rule 5.01(6). The compliance officer and executive director of the issuer, Mr Tang, also failed to fulfil his duties as compliance officer by failing to ensure that internal controls in the subsidiary remained adequate notwithstanding the downsizing of its business.

Theme:

(1) Directors' duties

Key messages:

- Directors have clear duties to safeguard the assets of the issuer. They are individually and collectively responsible for the issuer's compliance with the Listing Rules.

- The Exchange expects directors to take an active interest in the issuer's affairs and actively participate in board meetings which serve as an effective channel of communication among board members.
- Directors must ensure there are adequate and effective internal controls that are properly implemented, taking into account any major change in the issuer's affairs and the resources devoted to the maintenance of internal controls. It is not acceptable to relegate this obligation to one of minor importance and/or to delegate this function to someone else without proper reporting to the board.
- The role of compliance officer requires proactive engagement by properly qualified individuals.

G.A. Holdings Limited (stock code: 8126)

News release of 13 April 2018

This case concerns the Company's failure to comply with the announcement, reporting, circular and/or shareholders' approval in respect of 55 connected transactions, continuing transactions and notifiable transactions entered into by the Company and its subsidiaries between 2008 and 2016, totaling to a value of approximately RMB1.276 billion.

The GEM Listing Committee found that the Company's breach of the Listing Rules was caused by the conduct of its four former executive and independent non-executive directors. Those directors failed to: (1) take reasonable steps to procure the Company to comply with the procedural requirements under the GEM Listing Rules in respect of the relevant transactions; and (2) establish and maintain an effective and appropriate internal control system. The transactions took place over a number of years but were not detected notwithstanding the audit committee having purportedly reviewed the issuer's internal controls annually.

The GEM Listing Committee found that the former executive director and compliance officer, Mr Loh Nee Peng, failed to advise and assist the board in implementing internal control procedures to ensure the issuer's compliance with the GEM Listing Rules.

Themes:

- (1) Directors' duties
- (2) Failure to comply with procedural requirements in respect of notifiable and connected transactions

Key messages:

- Compliance with the disclosure and shareholder approval requirements is crucial.
- The ability to comply with the relevant procedural requirements calls for the creation and maintenance of robust internal controls. The failure of the board to oversee and review, on an ongoing basis, the effectiveness of its internal controls exposes the issuer to risks of non-compliance with the Listing Rules.
- Directors taking up the role of compliance officer must equip themselves with the necessary knowledge and take professional advice where appropriate to ensure they are able to properly discharge their personal obligations.

Boer Power Holdings Limited (stock code: 1685)

News release of 16 May 2018

Mr Huang Liang, the issuer's former executive director, had control of the issuer's bank accounts, chops/seals, and books and records. He arranged certain loans to be made by the issuer (which constituted financial assistance) and the financing of the loans without the knowledge/approval of the board. There was no record of the same in the issuer's books and records, therefore no disclosure was made in the issuer's annual reports for the financial year ended 31 December 2013 and 2014. After the issuer's discovery of the loans and financing arrangement in March 2016, prior year adjustments had to be made to the 2013 and 2014 annual reports.

The issuer admitted that its internal controls team, who oversaw the issuer's internal processes, had been ineffective in respect of this incident by reason of: (1) the lack of human resources and inadequate understanding of the financing arrangement; and (2) its failure to, among others, recognise and book the loans as account receivables.

The Listing Committee found that: (1) the issuer has breached Rule 2.13(2) by failing to disclose the loans and the financing arrangement in its 2013 and 2014 annual reports, hence rendering them inaccurate and incomplete in all material respects and misleading; (2) Mr Huang and four executive directors were in breach of Rule 3.08(f) and their Undertakings for failing to procure the issuer's compliance with Rule 2.13(2) and to ensure the issuer had adequate and effective internal controls and risk management systems; and (3) Mr Huang was also in breach of Rule 3.08(c) for misapplying the issuer's assets in respect of the loans.

Themes:

- (1) Directors' duties
- (2) Inaccurate, incomplete and/or misleading disclosure in corporate communication

Key messages:

- It is imperative to maintain a clear division of responsibilities within the board and management to ensure a balance of power and authority. That power must not be concentrated in any one individual.

- Directors are under an obligation to ensure the adequacy of the issuer's resources, staff qualifications and experience, and training program, for maintaining effective risk management and internal control systems, so as to ensure the issuer's compliance with the Listing Rules.

Trillion Grand Corporate Company Limited (stock code: 8103) **News release of 29 May 2018**

The issuer in this case delayed its publication of nine sets of financial results and reports, and therefore repeatedly breached the financial reporting requirements under Chapter 18 of the GEM Listing Rules. The delay led to a suspension of trading in the issuer's shares from 2 July 2013 to 15 July 2015.

According to the issuer, the main reasons for the delay were: (1) insufficient audit evidence from an associate in the PRC; and (2) assessment on impairment loss of certain of the issuer's subsidiaries.

The GEM Listing Committee considered that the issuer had serious internal control deficiencies during the relevant period, which led to its delay in publishing the financial results and reports. The 17 former executive, non-executive and independent non-executive directors, who were in office when the internal control deficiencies existed, were found to have breached their directors' duties under GEM Listing Rule 5.01(6) and their Undertakings, by reason of their failure to ensure that the issuer had adequate and effective internal controls for the issuer's compliance with the GEM Listing Rules.

Out of these directors, 15 of them also breached their directors' duties by one or more of the following non-compliant conduct: (1) reliance on other directors or parties for fulfilment of directors' duties; (2) failure to exercise independent judgment; (3) subordinating directors' power and performance of duty to the will of others; (4) signing board minutes upon request without inquiry; and (5) persistent absence from or low attendance at board meetings.

Three former executive directors were also the issuer's compliance officer for different periods and were found to have breached their duties in that role.

Themes:

- (1) Directors' duties
- (2) Financial reporting – delays, or internal controls and corporate governance issues
- (3) Repeated breach of the Listing Rules

Key messages:

- Directors must devote sufficient time and attention to, and take an active interest in, the affairs of the issuer, including actively involving themselves in decision making at board meetings.
- The appointment of a compliance officer for a GEM issuer is to support the issuer's compliance with the GEM Listing Rules. The director taking up this role must understand and duly discharge his/her duties.
- Directors must ensure there are adequate and effective internal controls to ensure the issuer is able to comply with its financial obligations under the Listing Rules.

Mr Fu Ji Wen and Ms Zhou Bao Ying, former executive directors of Huarong International Financial Holdings Limited (stock code: 993)

[News release](#) (Mr Fu) of 3 April 2018

[News release](#) (Ms Zhou) of 14 June 2018

Mr Loh Nee Peng, Mr Loh Boon Cha, Mr Wong Jacob and Ms Song Qi Hong, former executive and independent non-executive directors of G.A. Holdings Limited (stock code: 8126)

[News release](#) of 13 April 2018

Mr Zhang Jing Zhi and Mr Jiang An Ping, former executive directors of Sound Global Limited (stock code: 967)

[News release](#) (Mr Zhang) of 3 May 2018

[News release](#) (Mr Jiang) of 3 May 2018

Mr Huang Liang and Mr Qian Zhongming, former and current executive directors of Boer Power Holdings Limited (stock code: 1685)

[News release](#) of 16 May 2018

Mr Gankhuyag Chultemsuren, former executive director of IR Resources Limited (stock code: 8186)

[News release](#) of 31 May 2018

These cases once again highlight the importance of directors' compliance with their Undertakings to cooperate with the Exchange's investigations.

Of note is the case concerning Mr Loh Nee Peng, Mr Loh Boon Cha, Mr Wong Jacob and Ms Song Qi Hong, former executive and independent non-executive directors of G.A. Holdings Limited. Those directors failed to cooperate in the Listing Department's investigation. However, they did respond to the disciplinary action taken by the Listing Department by joining as parties to the Company's submissions. As for Ms Song Qi Hung, the Listing Department contacted her by telephone and asked to provide her latest correspondence address, which was refused by Ms Song. This amounts to a flagrant disregard of her obligations set out in her Undertaking given to the Exchange.

Theme:

(1) Directors' failure to cooperate with the Exchange's investigation

Key messages:

- A director must comply with his Director's Undertaking given to the Exchange that he will cooperate with the Exchange's investigation and provide his up-to-date contact address for a period of three years from the date on which he ceases to be director of the issuer.
- The undertaking to cooperate in the Exchange's investigation encompasses the directors' obligation to answer promptly and openly any questions addressed to them. When dealing with the Exchange's questions about potential Listing Rule breaches, it is unacceptable for a director to unduly delay his response, or selectively respond, to the Exchange.
- The Exchange will not tolerate a director's failure to comply with these important obligations and a finding of breach will impact his suitability to act as director of an issuer listed/to be listed on the Exchange.

COMPLIANCE HIGHLIGHTS

This section highlights issues and observations we have come across during our investigations of suspected breaches of the Listing Rules. These highlights aim to help issuers and directors understand and comply with the Listing Rules.

Subscriptions of wealth management products are “transactions”	
Observation	Issuers failed to comply with the announcement and/or circular and shareholder approval requirements under Chapter 14 (Main Board)/ 19 (GEM) of the Listing Rules in respect of its subscriptions of wealth management products.
Concern	There have been misconceptions on the part of the issuers and directors that low-risk wealth management products offered by banks with low redemption risks are akin to cash or deposits in banks, therefore not being categorised as a “transaction” under the Listing Rules.
Reminder	The subscriptions of wealth management products by listed issuers may be caught by the notifiable transaction provisions of the Listing Rules. Issuers must consider the Listing Rule implications and comply with the procedural requirements where applicable.

Notice period for board meetings	
Observation	Many issuers have miscounted the notice period for the announcements of their board meetings, resulting in the notice being less than seven clear days.
Concern	The insufficient notice period is a breach of Rule 13.43 (Main Board) / Rule 17.48 (GEM). The breach may have been caused by the issuer’s internal control deficiencies.
Reminder	<ul style="list-style-type: none"> • It is important for issuers to ensure that they have adequate and effective internal controls to comply with the Listing Rules. • While a single instance of non-compliance with the Listing Rules, when taken in isolation, may be minor in nature and does not warrant disciplinary action, repeated non-compliance may lead to formal disciplinary action. “Repeated breaches” is one of the themes of the Exchange’s enforcement of the Listing Rules.

