

ENFORCEMENT SANCTIONS STATEMENT

THE STOCK EXCHANGE OF HONG KONG LIMITED

DISCIPLINARY HEARINGS

**STATEMENT ON PRINCIPLES AND FACTORS
IN DETERMINING SANCTIONS AND DIRECTIONS IMPOSED BY
THE DISCIPLINARY COMMITTEE AND THE LISTING REVIEW COMMITTEE**

1. This statement may be referred to as the Sanctions Statement. Unless otherwise stated, abbreviated terms used in this statement shall have the same meanings as defined in the procedures for disciplinary hearings of The Stock Exchange of Hong Kong Limited.
2. This statement sets out the general principles and factors that a Disciplinary Committee or the Listing Review Committee (each referred to in this statement as the **Committee**) should generally take into account when considering and determining sanctions for breaches of the MB Rules or the GEM Listing Rules (collectively the **Rules**).
3. This statement serves to assist the Committee in achieving consistency in determining and imposing sanctions, always recognising that: (i) over time the general approach to the imposition of sanctions may need to change for policy or other reasons; and (ii) previous disciplinary decisions do not serve as binding precedents.
4. The guidelines in this statement do not derogate from the obligation of the Committee, when determining the appropriate sanctions and directions, to have regard to all relevant circumstances in any individual case. Nor do they purport to comprise an exhaustive list of the principles or factors which the Committee may need to take into account.
5. General principles:

(a) Enforcement action and the imposition of disciplinary sanctions are essential elements of the Exchange's focus on upholding compliance with the Rules, enhancing market quality and corporate governance, protecting investors, maintaining public confidence, and ensuring an orderly, informed and fair market.

~~(a)~~(b) Disciplinary sanctions should be imposed to protect the public and the integrity of the market and facilities the Exchange operates, deter further breaches of the Rules by the respondent(s), educate the market and improve corporate governance, remedy conduct in breach of the Rules, and deter all other parties subject to the disciplinary jurisdiction of the Exchange from engaging in the same or any similar misconduct.

(c) The range of breaches which may warrant the imposition of disciplinary sanctions is broad, and includes both "active" and "passive" misconduct. Passive misconduct would include a failure to take sufficient steps to discharge a duty. Accordingly, public sanctions may and often will be appropriate for issuers and/or individuals where there are control environment failings (for example, internal control deficiencies, or insufficient oversight) for which they are responsible, even if these failings do not directly lead to any other Rule breaches or loss.

(d) Whilst disciplinary sanctions will be assessed against each respondent individually (see paragraph 9 below), in the case of directors, the principle of collective and individual responsibility for Rule compliance will be applied.

(b)(e) The Committee will take into account the circumstances of the breach/~~breaches,~~(es), the seriousness of the misconduct, and any relevant mitigating or aggravating factors.

(c)(f) Disciplinary sanctions should be more severe for repeated misconduct, or where the relevant misconduct evidences an intentional, wilful or reckless disregard for the Rules.

(d)(g) The Committee will determine the disciplinary sanction on the basis of the evidence and submissions before it, and exercise its powers fairly, impartially and with due regard for the principles of natural justice.

6. If the Committee finds there has been a breach of the Rules by any of the parties within the Exchange's disciplinary jurisdiction, it may impose sanctions and/or take action as set out in Rule 2A.10 of the MB Rules or Rule 3.11 of the GEM Listing Rules. A summary of the primary disciplinary sanctions available is set out in Appendix 1. A flowchart of the primary disciplinary sanctions against individuals is set out in Appendix 2.

6-7. The Committee may, where relevant, consider the following principal factors (in mitigation or aggravation) in determining an appropriate sanction:

- (a) The compliance history of the respondent(s).
- (b) Disciplinary sanctions previously applied by the Exchange in relation to the same or similar types of breach, or in comparable circumstances (subject to paragraph 3 above).
- (c) Whether the respondent(s) fully assisted and cooperated with the Exchange in its investigation, and whether the level of the assistance and cooperation provided by the respondent(s) minimised the time and costs of the investigation (or conversely, whether there was a failure fully to assist or cooperate with the Exchange in its investigation). In this regard, please refer to the Guidance Note on Cooperation.
- (d) Whether the respondent(s) made an early decision not to contest the case brought against it/them (including any recommendation as to sanctions/directions), thereby saving time and costs, and assisting the Committee in the efficient administration of the disciplinary process.
- (e) Whether the misconduct was unintentional, negligent, wilful, reckless, intentional, deceptive, manipulative and/or fraudulent, as the case may be.
- (f) Whether the misconduct was an isolated instance or occurred over an extended period of time.
- (g) Whether the misconduct was self-reported in a timely and comprehensive manner, or there was a failure to report (or an attempt to conceal) the relevant misconduct.

- (h) Whether the relevant misconduct was systemic or indicative of a pattern of non-compliance with the Rules.
- (i) The size of any commercial advantage or financial benefit obtained as a result of the misconduct.
- (j) Whether there is evidence of a culture conducive to compliance with the Rules and the promotion of good corporate governance.
- (k) Whether the misconduct resulted in, or had the potential to result in, loss or injury to other parties (e.g. shareholders, the investing public, other market participants, creditors, etc.), and if so, the nature and extent of that actual or potential loss or injury.
- (l) Any steps taken to remediate the breaches, and/or to redress any risk, loss or injury caused.
- ~~(m) Whether the respondent(s) had placed reasonable reliance upon receipt of independent professional and considered accounting or legal advice.~~
- ~~(m) To the extent a respondent has relied on others (including but not limited to other directors, senior management, staff members and professional advisers), whether such reliance is in the circumstances reasonable, such as whether the respondent has continued to (i) give adequate oversight, (ii) apply professional scepticism, and (iii) exercise independent judgement.~~
- (n) Whether, at the time of the breach(es), the respondent(s) had appropriate supervisory, risk management, operational or technical procedures and/or controls in place for procuring compliance with the Rules. This may include, amongst other things:
 - (A) whether an effective and robust internal controls system has been established, covering the full control environment from policies through procedures and working practices;
 - (B) whether directors and staff members have the necessary skills, experience, resources and training on internal controls and risk management measures;
 - (C) whether the control environment has been regularly reviewed, maintained and updated, including in compliance with Corporate Governance Code; and
 - (D) whether proper channels exist for concerns regarding risk or Rule compliance matters to be raised, and whether any escalated concerns are then appropriately handled.
- (o) Whether the respondent(s), subsequent to the breach(es), took steps or measures to prevent any recurrence of the contravening conduct.
- (p) Whether the relevant conduct damaged, or had the potential to damage, the reputation of the Exchange or the integrity of the market and facilities it operates.
- (q) Whether the respondent(s) participated in the disciplinary proceedings by filing written submissions and by attending the disciplinary hearing (unless attendance has been

excused, e.g. as the respondents accepted the case against them).

7.8. The Committee will consider the level of seriousness of the misconduct by reference to the circumstances of the matter and the conduct involved together with any relevant mitigating or aggravating factors.

8.9. Where there are multiple respondents, e.g. a number of directors of a listed company, the Committee will consider the position of each respondent separately to determine whether the individual circumstances of each person and the extent and nature of their involvement in, and knowledge or otherwise of, the breach(es) warrant different or the same sanctions being imposed on them.

9.10. Before the Committee orders a cancellation of listing, suspension of trading, or the denial of facilities of the market under Chapter 2A of the MB Rules or Chapter 3 of the GEM Listing Rules, the Committee shall have regard to at least the following matters:

- (a) the seriousness of the misconduct of the respondent(s) and/or individual(s) involved;
- (b) the relevant compliance history;
- (c) whether the concerns or issues identified by the Exchange have been or can be satisfactorily addressed by remedial action; and
- (d) the financial impact that such an order is likely to have on the respondent or on any other parties.

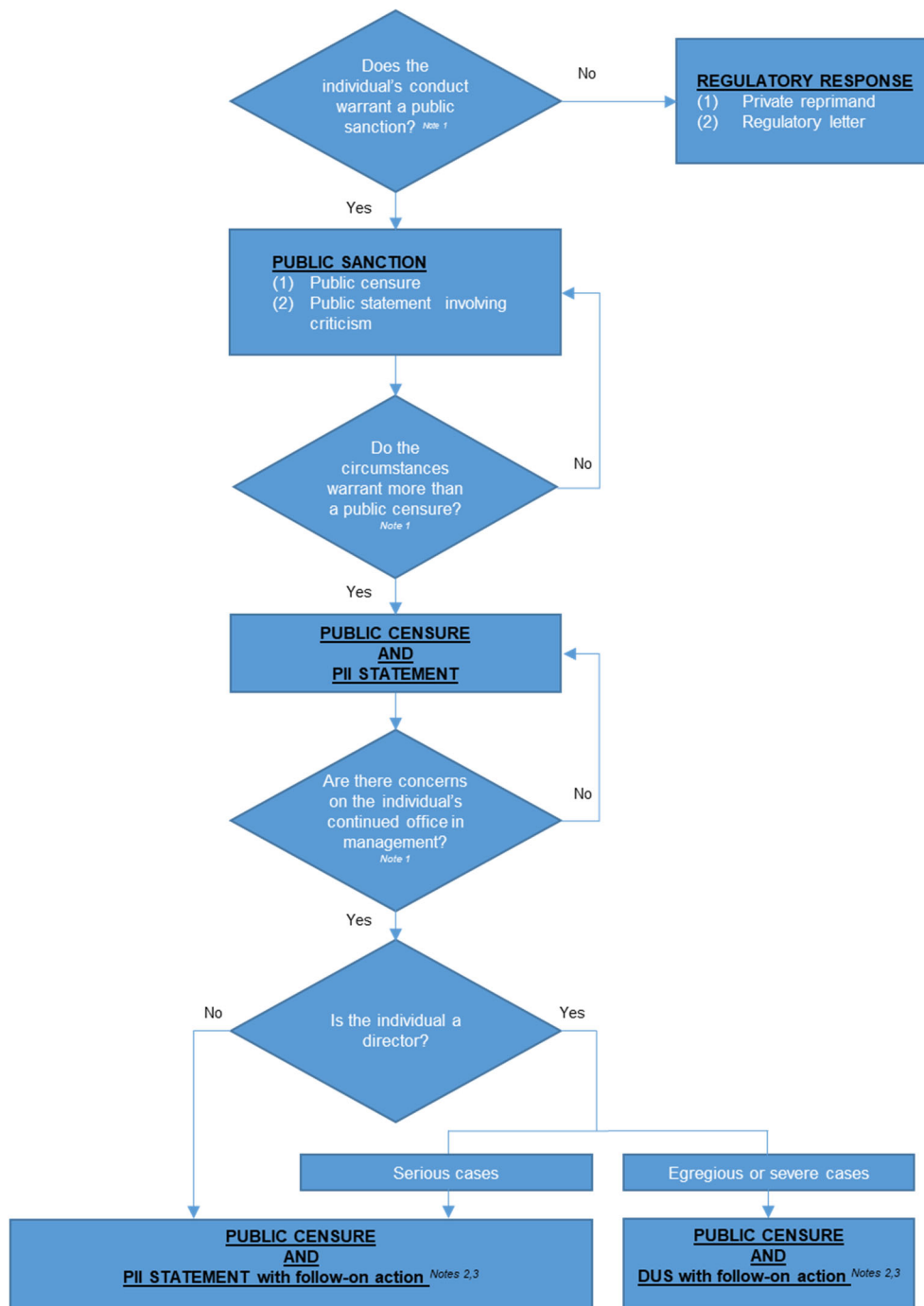
Dated: ~~8 July 2021~~ 25 October 2022

Appendix 1 – Summary of primary disciplinary sanctions available

Sanctions (relevant Rule)	Relevant Parties						
	Listed issuers	Directors	Senior management members	Professional advisers (and/or their employees)	Substantial shareholders	Other entities / individuals	
Reputational sanctions (from less to more serious)	Private reprimand (MB Rule 2A.10(1) or GEM Rule 3.11(1))	✓	✓	✓	✓	✓	
	Public statement involving criticism (MB Rule 2A.10(2) or GEM Rule 3.11(2))	✓	✓	✓	✓	✓	
	Public censure (MB Rule 2A.10(3) or GEM Rule 3.11(3))	✓	✓	✓	✓	✓	
	Prejudice Interests of Investors (PII) Statement (MB Rule 2A.10(4) or GEM Rule 3.11(4))	n/a	✓	✓	✗	✗	✗
	Director Unsuitability Statement (MB Rule 2A.10(5) or GEM Rule 3.11(5))	n/a	✓	✗	✗	✗	✗
Remedial sanctions	Follow-on actions* (MB Rule 2A.10A(2) or GEM Rule 3.11A(2))	✓	n/a	n/a	n/a	n/a	
	Denial of facilities of the market (MB Rule 2A.10(6) or GEM Rule 3.11(6))	✓	n/a	n/a	n/a	n/a	
	Suspension or cancellation of listing (MB Rules 2A.10(7) and (8) or GEM Rules 3.11(7) and (8))	✓	n/a	n/a	n/a	n/a	
	Rectification or remedial sanctions (MB Rule 2A.10(11) or GEM Rule 3.11(11))	✓	✓	✓	✓	✓	
Ancillary or operational sanctions	Ban on professional advisers (MB Rule 2A.10(9) or GEM Rule 3.11(9))	n/a	n/a	n/a	✓	n/a	
	Report the offender's conduct to another regulatory authority (MB Rule 2A.10(10) or GEM Rule 3.11(10))	✓	✓	✓	✓	✓	
	Take such other action as appropriate (MB Rule 2A.10(12) or GEM Rule 3.11(12))	✓	✓	✓	✓	✓	

* Denial of facilities of the market, suspension or cancellation of listing as follow-on action if individual subject to PII Statement or Director Unsuitability Statement remains in office (of the specific issuer).

Appendix 2 – Flowchart of the Disciplinary Sanctions against Individuals



Notes:

- (1) Non-exhaustive factors which may be considered are detailed in the Enforcement Policy Statement and Sanctions Statement.
- (2) Listed issuers and listing applicants must note the applicable disclosure requirements upon a PII Statement or Director Unsuitability Statement being imposed on an individual.
- (3) Follow-on actions available are (i) denial of facilities of the market; and/or (ii) suspension or cancellation of listing.