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SFC Reprimands and Fines China Southern Securities (Hong Kong) Limited and Cheung Tung Woon for FRR Breaches

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The SFC has reprimanded China Southern Securities (Hong Kong) Limited and one of its responsible officers Mr Cheung Tung Woon for breaches of the Securities and Futures (Financial Resources) Rules (FRR). China Southern and Cheung were also fined \$400,000 and \$35,000 respectively (Note 1).

An SFC investigation revealed that China Southern had a liquid capital deficiency on a total of seven days during the periods from 6 to 10 November 2003 and from 8 to 11 December 2003. The deficiency arose when China Southern drew down two bank loans to finance its clients in two Initial Public Offering (IPO) subscriptions in November and December 2003 respectively (Note 2). As a result, China Southern breached section 6(1) of the FRR. The breaches were rectified on 11 November 2003 and 12 December 2003.

Although China Southern reported the December 2003 FRR breaches immediately after it became aware of them, it failed to report the November 2003 breaches immediately. China Southern became aware of the liquid capital deficiency in November 2003 when it submitted the relevant FRR returns to the SFC on 19 February 2004. However, it did not notify the SFC of the deficiency in writing until 27 February 2004. As a result, China Southern breached section 146(1) of the Securities and Futures Ordinance.

Cheung did not know that the bank loans had to be included in computing the required liquid capital until he was told by the SFC during a meeting on 8 December 2003. Cheung was also the signatory of the FRR returns submitted by China Southern on 19 February 2004 and was responsible for FRR compliance. He admitted that he was negligent and had not diligently reviewed the returns before he signed them. He is therefore responsible for China Southern's failures.

The SFC concludes that the fitness and properness of China Southern and Cheung has been called into question.

In deciding the level of fine, the SFC has considered the Disciplinary Fining Guidelines (Note 3) and all the circumstances of the case, including the fact that:

- China Southern and Cheung were negligent;
- China Southern and Cheung co-operated with the SFC's investigation; and
- no loss or damage was suffered by clients, market users or the general public.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "The SFC attaches great importance to compliance with FRR by licensees to ensure that investors are protected. Licensees should take steps to ensure compliance. Responsible officers who sign an FRR return will be held responsible for its accuracy."

Ends

Notes to Editor:

1. China Southern holds a deemed licence under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities. Cheung, a responsible officer of China Southern, likewise holds a deemed licence to carry on Types 1 and 4 regulated activities.
2. Please refer to the [SFC press release issued on 9 December 2003](#) for treatment of IPOs under the FRR.
3. The [Disciplinary Fining Guidelines](#) were issued by the SFC in March 2003 under section 199 (1)(a) of the Securities and Futures Ordinance. The Guidelines can be found on the SFC website under "[Legislation and Regulatory Handbook](#)" - "[Regulatory Handbook](#)" - "[Codes, Guidelines and Circulars](#)".

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