

# LCQ17: Sponsors and listing applications

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (June 19):

Question:

In recent months, a number of sponsors were reprimanded, fined and/or had their licences suspended by the Securities and Futures Commission (SFC) for failing to discharge their obligations. In this connection, will the Government inform this Council whether it knows:

(1) the respective numbers of complaints or reports about sponsors failing to discharge their obligations (i) received, (ii) an investigation into which was launched and (iii) the investigation of which was completed, as well as the number of cases in which disciplinary sanctions were imposed on sponsors found guilty of misconduct (and the details of each case), by SFC in each of the past five years;

(2) if SFC has studied new measures to make issuers of listed securities, their directors and underwriters shoulder greater responsibilities for ensuring the accuracy and completeness of the contents of the prospectuses, so as to avoid such responsibilities being borne solely by sponsors; and

(3) if SFC maintained, in the past three years, communication with the various parties involved in the issue of listed securities, with a view to understanding their needs and adjusting from time to time the measures concerned; if SFC did, of the details; if not, the reasons for that?

Reply:

President,

(1) During the period from January 2014 to May 2019, the Securities and Futures Commission (SFC) received a total of 113 complaints or reports related to alleged sponsors failures. The details are set out in Table 1 of the Annex. During the same period, the SFC has taken 16 disciplinary actions against the failures of sponsors and/or sponsor principals (including cases that are originated from complaints or reports received outside the said period). The respective penalties of these cases are set out in Table 2 of the Annex.

The SFC will take follow-up actions on every complaint and report received. However, the position of the follow-up actions of the complaints and reports and the progress of investigations are details that are subject to the secrecy provisions of the Securities and Futures Ordinance (SFO). The

SFC cannot disclose such information.

(2) The existing legislation has already prescribed the respective responsibilities of the sponsors, listing applicants and their directors involved in an initial public offering. Following the established practice in strictly adhering to the provisions of the SFO, the SFC may object to listing applications that contain false or misleading information and prosecute the persons involved, including listing applicants and their directors.

According to the Companies (Winding Up and Miscellaneous Provisions) Ordinance, directors of a listing applicant shall bear legal liability in respect of the contents of the prospectus.

According to the Securities and Futures (Stock Market Listing) Rules, the SFC may object to a listing application on certain grounds, including that if it appears to the SFC that the listing applicant has provided false or misleading information regarding a material fact (or through the omission of a material fact).

In addition, according to the SFO, if the SFC has reasonable cause to believe that a person (including the directors of a listing applicant) has knowingly or recklessly provided false or misleading information in its statutory filing with the SFC, the SFC may conduct investigation against that person. Where appropriate, the SFC may prosecute the offenders.

(3) The SFC conducts regulatory supervision of sponsors based on its risk-based supervisory approach, and with particular attention to the possible deficiencies in their due diligence work. During the regulatory supervision, the SFC communicates with the sponsors about the concerns that it may have on the sponsors' work. The SFC also provides the industry with examples of cases that fall short of the expected standards through publishing circulars or thematic reports. For example, the SFC issued a thematic report in March 2018 which draws the industry's attention to specific deficiencies and the instances of non-compliance as observed by the SFC during its regulatory supervisions. The report also highlights the practices that meet the SFC's expected standards. In addition, the SFC issued a circular in March 2018 to remind licensed corporations engaging in sponsors work of the SFC's expected standards on conduct and due diligence practices and to urge them to critically review and enhance their internal system and control measures.