



Disciplinary Proceedings at a Glance (for regulated persons under Part 5B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance)

Overview of Disciplinary Proceedings at a Glance (for regulated persons under Part 5B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance)

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SFC Disciplinary Proceedings at a Glance

This guide is intended to provide a brief overview of the Securities and Futures Commission's (SFC) disciplinary process under the licensing regime for virtual asset trading platforms.

Under subdivision 1 in division 9 of Part 5B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO), the SFC is given the power to discipline its licensees, comprising firms, their responsible officers and those involved in their management (together referred to as regulated persons). If the SFC finds that a regulated person's conduct suggests it is, or was at any time, guilty of misconduct or not fit and proper, the SFC may impose sanctions from the range set out in the AMLO. This guide explains how we go about this process.

This guide does not concern other actions the SFC may take, such as civil proceedings before the Hi





Potential disciplinary measures available to the SFC

The SFC is empowered to impose one or more of the following sanctions:

- f* revocation of licence
- f* suspension of licence
- f* revocation of approval to be a responsible officer
- f* suspension of approval to be a responsible officer
- f* prohibition of application for licence
- f* prohibition of application to become a responsible officer
- f* fine (up to a maximum of \$10 million or three times of the profit gained or loss avoided, whichever is higher)
- f* private or public reprimand
- f* remedial action order

All of the SFC's sanctions, except for private reprimand, will be publicly announced by means of a press release. All press releases on SFC enforcement actions, including disciplinary actions, are available in the "[Enforcement news](#)" section of the SFC website (www.sfc.hk).

To better understand our considerations when imposing a fine, please refer to the SFC Disciplinary Fining Guidelines (for regulated persons under Part 5B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance) published in June 2023. They can be found on the SFC website (in the "Rules & standards" – "Codes & Guidelines" – "Guidelines" section).

Disciplinary process



Investigation

The SFC investigates acts that suggest misconduct or call into question the fitness and properness of a regulated person. We may initiate an investigation based on information from various sources, including the public, other regulators or law enforcement agencies in Hong Kong, such as the Hong Kong Police Force, foreign regulators and internal referrals. Internal referrals may arise from our monitoring and inspections of licensed providers or from investigations into other matters, such as criminal offences. Following the investigation, we will consider whether evidence is sufficient to commence disciplinary proceedings.

Our disciplinary investigations should not be confused with those of other bodies, such as the Hong Kong Police Force and the Independent Commission Against Corruption, which also investigate suspected criminal behaviour.

Notice of proposed disciplinary action (NPDA)

The SFC sends an NPDA to a regulated person if it decides to start disciplinary proceedings.

The NPDA sets out the SFC's preliminary views on the misconduct or conduct that calls into question the fitness and properness of the regulated person. The NPDA also states the sanctions proposed by the SFC which it considers appropriate to impose based on the facts available at the time.

Representations by regulated persons

In the NPDA, the SFC invites the regulated person to explain the matter and why the proposed sanctions are not appropriate. Representations should be made in writing to the person who signed the NPDA. We expect representations on the facts and proposed sanctions to be made at the same time.

Opportunity to be heard

Before exercising any power to discipline, the SFC always gives the regulated person a reasonable opportunity to be heard. We allow the regulated person to make representations to explain the matter and comment on the appropriateness of the proposed sanctions. Under normal circumstances, the regulated person is given 30 days to make representations. However, we will cons



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