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section 213 with their inspiration in equity. And this is right because both criminal law and equity share the same foe.

This is not to derogate the role of the criminal justice system. Deterrent sanctions remain vital. But they are not paramount. Nor are they universally applicable. For example, they cannot be sought against defendants who are not in Hong Kong.

So, our approach is that general deterrent or penal outcomes alone are inadequate to deal effectively with the problems raised by misconduct in our markets.

An approach that only focuses on the wrongdoer and ignores the consequential effects of the wrongdoing in our market is simply inadequate.

This is not to say individuals should not bring their own actions, invoking their own causes of action where possible. But the reality of an anonymous market is that relevant causes of action are not readily visible. Even if you suspect you may have been on the wrong end of market misconduct, in an anonymous market, who do you take action against? And in many cases, the quantum of damage, at an individual level, is too small. The diffusion of harm across a wide number of parties does not mean the overall total damage is not significant and material.

This is where securities regulators can play a distinctively helpful role.

The Court of Final Appeal's decision means cases like Hontex International Holdings Company Limited, in which over \$1 billion was returned to minority shareholders following court orders that its IPO prospectus contained false or misleading information, will not be rare birds. This is good news for Hong Kong.

Listed Company Disclosure

Let me now turn to an issue that I suspect may be closer to your immediate concerns, timely disclosure of price sensitive information by listed companies.

Earlier this year, the law changed making listed company disclosure of price sensitive information a statutory obligation for all listed companies in Hong Kong with statutory consequences for non-compliance.

The SFC has published figures that show the number of announcements made by listed companies in the first three months of this year rose by 43% against the corresponding period last year.

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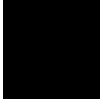
The problems created by unequal access to price sensitive information or the non-disclosure of vital information is not a new issue or one that has suddenly become one as a consequence of the new statutory regime that started this year. We have been very active for a number of years and our actions have helped to pave the way for this reform.

The reason for this is because the connection between corporate governance and market integrity is a close one. Misuse of confidential information through selective disclosure, leakage or insider dealing damages the interests and well-being not only of the company and its shareholders but also the market because asymmetries of information inevitably distorts genuine forces of supply or demand.

Our corporate governance program – one of our six strategic programs of activity in our enforcement work – has been actively attacking poor disclosure practice by listed companies for many years. We have brought dozens of actions against listed company directors largely over disclosure issues. These have been among the first court actions taken in Hong Kong to protect the market from harm caused by poor disclosure practices.

In the last 18 months, for example, we have taken or completed actions against:

For



Proceedings against former directors of Medical China Limited in respect of false or



Of course legal advice is a component in understanding whether the disclosure obligation has been triggered. For example, important questions might arise as to whether a relevant exception or carve-out applies. These are not going to be very difficult or time-consuming issues. But assessing the likely behaviour of typical investors, which is at the heart of the assessment of whether information is inside information, does not involve any legal analysis.

The definition is designed to be usable by company directors who have a close understanding of their business and its stakeholders, especially its investors. A board of directors ought to be able to make educated judgments, based on their experience, as to how typical investors are likely to react to news. Of course many directors will also be investors themselves, so the point ought not to be too lost on them.

But no doubt there may be cases where it is prudent or appropriate to seek advice on this issue. Again, it is unlikely lawyers will be especially authoritative on this point.