



Fighting On the Frontline: An Update 3rd Annual US-China Legal Summit

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Thank you for inviting me here this morning.

The



current insider dealing, market manipulation and market misconduct





caused by incompetence, negligence, an absence of adequate systems and controls, or a combination of all these things.

assesses corporate governance of Mainland-related companies, all of whom in this case are Hong Kong listed. The report identified a number of so-called red flags in these companies. On publication, the share prices of these entities fell dramatically.

presumptions. However, a relevant question, amongst several, to be examined in this case will be whether there was a reasonable basis for these red flags – were they actually red flags or was there a less alarming explanation – as well as the adequacy of the control process over their identification and over the content and publication of the report.

The licence to carry out regulated activities – like credit rating activities – is a responsibility that confers privileges and obligations. It is vital that organisations like credit rating agencies (although not exclusively credit rating agencies at all) that can influence investor sentiment and therefore move markets, have high standards of probity and control over their public statements to ensure there is a proper foundation for them and that there is an appropriate degree of management control and supervision when such statements are made.



been enormously successful over the last 10 to 12 years and it remains the mainstay for our dealings with our overseas counterparts on enforcement cases, including the SEC.

However, the MMOU has limitations. It requires signatories to assist when asked to do so but it is less prescriptive and obligatory in respect of unilateral assistance, nor does it require or regulate the need for coordination where misconduct may start in one jurisdiction and infect another.