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## Enforcement News

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6 November 2007

### **SFC Reprimands and Fines ICBC (Asia) Securities Limited for FRR Breaches and Internal Control Failures**

The SFC has issued a reprimand to ICBC (Asia) Securities Limited and fined it \$350,000 for failing to maintain its required liquid capital in breach of the Securities and Futures (Financial Resources) Rules (FRR) (Note 1).

Between 27 October and 3 November 2006, ICBC (Asia) Securities failed to notify the SFC in time that its liquid capital had fallen below 120% of the required liquid capital on four days during that period. ICBC (Asia) Securities also failed to notify the SFC as soon as reasonably practicable of not being able to maintain its required liquid capital at 5% of its total adjusted liabilities on two of the four days.

ICBC (Asia) Securities sold a large amount of a newly listed stock for its client on two trading days. The sales proceeds, which were to be paid to the client within two days, temporarily raised ICBC (Asia) Securities' total adjusted liabilities substantially, so ICBC (Asia) Securities needed \$25 million and \$41 million more liquid capital on the two days respectively to comply with the FRR (Note 2). The SFC considers that the following factors contributed to ICBC (Asia) Securities' inability to comply:

- ICBC (Asia) Securities had not assessed the effect of the post IPO sales on their liquid capital needs;
- their trading IT system did not communicate effectively with their accounting IT system;
- the reporting lines for FRR breaches were unclear; and
- there was no written policy at the relevant time on the daily calculation of liquid capital, setting a daily share turnover limit that would trigger an alert to management, telling senior management about FRR breaches and ensuring FRR compliance.

In determining the penalty, the SFC has taken into account the Disciplinary Fining Guidelines and all the circumstances of the case, including the following:

- the inability to comply was technical, unintentional, and of short duration;
- ICBC (Asia) Securities took timely remedial action and proactively identified and implemented further measures to seek to strengthen its controls;
- no detriment was suffered by ICBC(Asia) Securities' clients or the investing public generally;
- ICBC (Asia) Securities has no previous record of inability to comply with FRR; and
- ICBC (Asia) Securities has co-operated fully with the SFC in its investigation and resolved this matter by way of an early consent to the SFC's decision.

Mr Mark Steward, the SFC's Executive Director of Enforcement, said: "The Financial Resources Rules are not mere technical requirements but designed to safeguard the interests of investors. No firm can afford to be caught out when the interests of investors are at stake and the SFC will continue to pay close attention to FRR."

Ends

Notes:

1. ICBC (Asia) Securities is licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities.
2. Under the FRR, firms are required to maintain a liquid capital level of the higher of \$3 million or 5% of the total adjusted liabilities.

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