

ENFORCEMENT

In 2022, the SC reviewed various securities law breaches for purpose of enforcement action arising from its active surveillance, supervision, and complaints received. 42% of cases reviewed were in line with the SC's enforcement priorities namely disclosure breaches, securities fraud and unlicensed activities (Table 1).

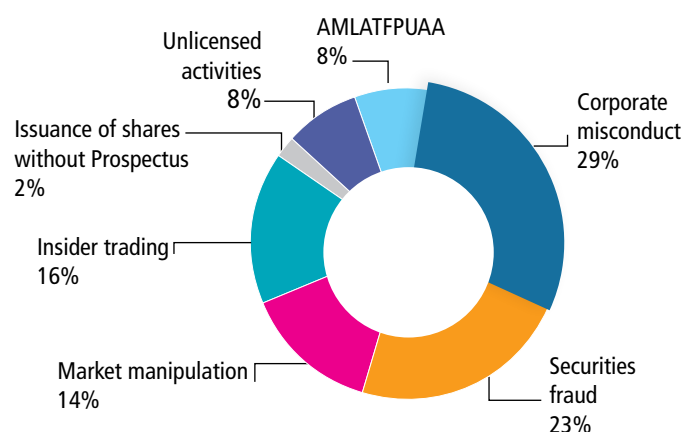
TABLE 1

Nature of offence	Total number of breaches reviewed
Disclosure breaches	11
Insider trading	9
Securities fraud	6
Unlicensed activities	5
Corporate misconduct (breach of s.317A CMSA only)	5
Breach of SICDA	4
Breach of SC's LOLA Guidelines	4
Breach of SC's <i>Licensing Handbook</i> / Condition	3
Market manipulation	2
Offence of money laundering	2
Breaches concerning unregistered DAX	1
Breach of Bursa Listing Requirements	1
GRAND TOTAL	53

As of 31 December 2022, there were a total of 49 active investigations. The SC, carrying its mandate to protect investors, continued to dedicate substantial resources to investigations involving securities fraud and corporate misconduct, which constituted half of the SC's active cases in 2022.

CHART 1

Active investigations by nature of offences

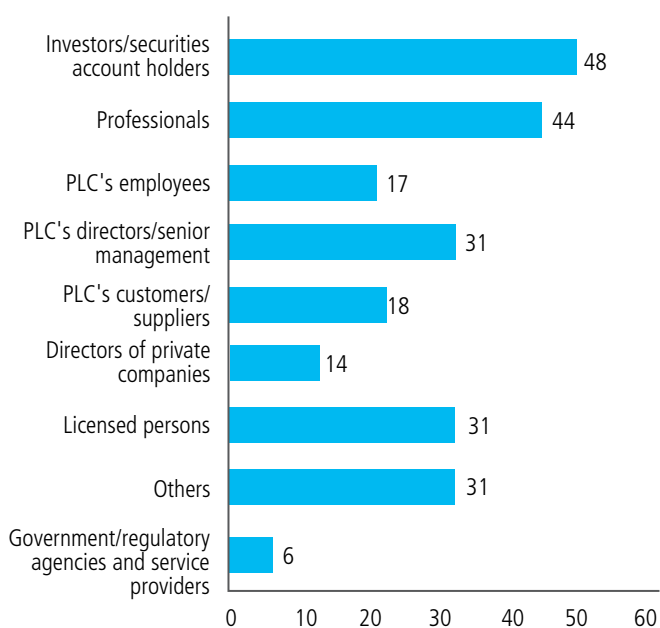


The SC's Investigating Officers, under the SCMA, are prescribed an array of investigative powers to facilitate the gathering of admissible evidence. This includes the powers to obtain documentary and oral evidence, which are an essential part of the investigative process.

In 2022, the SC’s Investigating Officers recorded statements from 240 individuals. More than 2 quarters of the statements were taken from investors/securities holders, professionals (which include investment bankers, auditors, and lawyers) as well as PLC’s employees, directors, and senior management. This is commensurate with the number of active investigations in relation to securities fraud and corporate misconduct offences.

CHART 2

Witness statement recorded in 2022 by type of witness



Consequent to the digitisation of the capital market and its many digitised processes in Malaysia, the SC’s Investigating Officers, through its digital forensic team, have also progressed to be better equipped with the necessary tools to ensure thorough analysis of digital evidence. In 2022, the SC’s digital forensic team conducted forensic exercises, including intelligence gathering, on-site device examination and on-lab device extraction. The team reviewed and extracted digital evidence from 121 digital devices (laptops, computers, mobile phones and storage devices) and 26 online sources throughout 2022.

Apart from locally gathering documentary and oral evidence, the SC utilises cross-border co-operation through the IOSCO MMoU on Consultation and Co-operation and Exchange of Information, especially when considering that cross-border transactions are common within the SC’s investigation. In 2022, the SC made 18 requests for investigative assistance to 10 foreign supervisory authorities under the IOSCO MMoU (Table 2), seeking their assistance to record statements from overseas witnesses and to obtain documentary evidence such as banking documents, securities transactions, telephone records, and information on beneficial ownership of companies.

As part of the signatories of the IOSCO MMoU, the SC also assisted 3 foreign supervisory authorities concerning 6 requests for investigative assistance.

TABLE 2

Request for investigative assistance

Jurisdictions	No. of requests
Australia	1
Bahrain	1
British Virgin Islands	2
Hong Kong	1
India	1
Indonesia	2
Oman	1
Qatar	1
Singapore	7
US	1
TOTAL	18

ADMINISTRATIVE ACTIONS

In 2022, a total of 118 administrative sanctions were imposed by the SC for various misconducts and breaches of securities laws including breach of AMLATFPUAA, knowingly causing the furnishing of information that is false or misleading to Bursa Malaysia, breach of take-overs and mergers provisions, and for late submission of documents under the LOLA Framework.

Sanctions imposed on the parties in breach comprised reprimands, revocation of license, suspension of license, imposition of penalties and directives and requirement to make restitution (Table 3).

In 2022, a total of RM11.999 million in penalties were imposed against the following parties for their misconducts and breaches of securities laws:

- 2 licensed intermediaries for delay in submitting the annual report for the financial year end 30 September 2021 to the SC for 3 wholesale funds and delay in submitting to the SC the monthly investment returns of 7 wholesale funds;
- 1 UTC for accepting cash and had monies credited into their personal bank accounts from investors for purposes of investment in unit trusts, provided statements to individuals which they knew contained false or misleading information and

TABLE 3

Administrative actions taken in 2022 by types of sanction and parties in breach

Parties in breach	Types of sanction					
	Reprimand	Penalty	Restitution	Directive	Revocation of license	Suspension of license
Licensed persons	10	11	-	3	1	1
PLC or company applying for listing	2	-	-	-	-	-
Directors/senior management of PLC or company applying for listing	15	10	-	-	-	-
Unlisted public companies	1	1	-	-	-	-
Principal adviser	1	-	-	-	-	-
Persons acting in concert	9	1	-	1	-	-
Other entities/individuals*	34	16	1	-	-	-
TOTAL	72	39	1	4	1	1

Note:

* Other entities/individuals sanctioned include 1 individual who allowed a third person who was not the beneficial owner of his/her Central Depository System (CDS) account to dispose shares through the individual's account, 1 individual who had effected the disposal of shares in his/her CDS account while not being the beneficial owner of said shares, 11 individuals who had received proceeds of an unlawful activity, 1 UTC who accepted cash and had monies into his/her personal bank accounts from investors, provided false or misleading information to individuals and carried on a business in the regulated activity of dealing in PRS when he/she was not a registered person, 1 individual who carried on a business in a regulated activity of providing investment advice to others concerning securities without holding a license and 1 UTC for entering into a written understanding or arrangement with an investor for investment decisions to be made on the investor's behalf and failing to explain the nature and characteristics of the unit trust fund marketed and gave a direct guarantee that a specific result will be achieved.

carried on a business in the regulated activity of dealing in private retirement schemes when he/she was not a registered person;

- 1 UTC for entering into a written understanding or arrangement with an investor for investment decisions to be made on the investor's behalf and failing to explain the nature and characteristics of the unit trust fund marketed and gave a direct guarantee that a specific result will be achieved;
- 1 individual who allowed a third person who is not the beneficial owner of his/her CDS account to dispose shares through the individual's account;
- 1 individual who had effected the disposal of shares in his/her CDS account while not being the beneficial owner of said shares;
- 11 individuals who had received proceeds of an unlawful activity;
- 1 unlisted public company which disclosed information that was misleading to the SC;
- 9 directors of a PLC who had knowingly caused the furnishing of information in an announcement made by the company to Bursa Malaysia that was misleading to Bursa Malaysia;
- 1 director of a PLC who had knowingly caused the furnishing of 6 financial statements that were false to Bursa Malaysia relating to the affairs of the company;
- 1 licensed individual who had made remarks that contributed to a misleading impression, failed to ensure that advertisements made did not contain misleading messaging and failed to ensure that information in advertisements are accurate;
- 1 licensed entity that had no proper policies and controls established to monitor referral and marketing activities, failed to comply with fit and proper condition through its Chief Executive Officer (at the material time), failed to ensure its licensed representative was adequately supervised, misused the SC's name and misled the audience for the benefit of the entity and failed to ensure proper custodial arrangement is in place to safeguard its private mandate clients' assets in respect of

investments in foreign jurisdictions as required under the securities laws;

- 1 licensed entity which failed to conduct ongoing due diligence and scrutiny on its customer;
- 1 individual who carried on a business in a regulated activity of providing investment advice to others concerning securities without holding a license; and
- 1 group of persons acting in concert for failing to undertake a mandatory take-over offer.

INFRINGEMENT NOTICES

Apart from administrative actions under its statutory powers, the SC also utilises other forms of non-statutory enforcement tools in the exercise of its monitoring, gate-keeping and supervisory functions.

Infringement notices are issued where breaches of securities laws or guidelines detected do not warrant the initiation of a formal enforcement action or the imposition of an administrative action.

Infringement notices issued by the SC include the following:

- **Supervisory letters involving Infringement** – issued pursuant to the exercise of a supervisory function or the conduct of an examination under section 126 of the SCMA.
- **Warning letters** – issued pursuant to the discharge of the SC's gatekeeping function such as the issuance of licences, approval of corporate proposals and review of prospectuses. Warning letters may be issued to licensed, registered persons or other professionals or experts.
- **Non-compliance letters** – issued pursuant to the discharge of the SC's gatekeeping function for minor breaches.
- **Notices of Cease and Desist** – issued to stop or prevent violation of securities laws. Notices of Cease and Desist may be issued to a person who is committing or about to commit an infringing act. Failure to comply with the cease and desist order may attract formal enforcement action by the SC.

In 2022, 76 infringement notices were issued by the SC (Table 4).

TABLE 4
Type of infringement notices

Type of infringement notices	Total
Supervisory letters involving infringement	33
Warning letters	13
Non-compliance letters	24
Notices of Cease and Desist	6
TOTAL	76

PROSECUTION

Ongoing Court Cases for 2022

For the year 2022, there were 36 ongoing cases at various levels of courts from the Sessions Court up to the Federal Court involving 56 individuals/entities (Table 5).

TABLE 5
Ongoing cases in court for 2022

Court	No. of cases	No. of individuals
Sessions Court (Criminal)	10	18
High Court (Criminal)	7	9
Court of Appeal (Criminal)	4	6
High Court (Civil)	10	18
Court of Appeal (Civil)	3	3
Federal Court (Civil)	2	2
TOTAL	36	56

The nature of cases ranged from corporate misconduct (22%), insider trading (31%), securities fraud (14%), market manipulation (5%), unlicensed activities (11%) and money laundering (17%) (Table 6 and Chart 2).

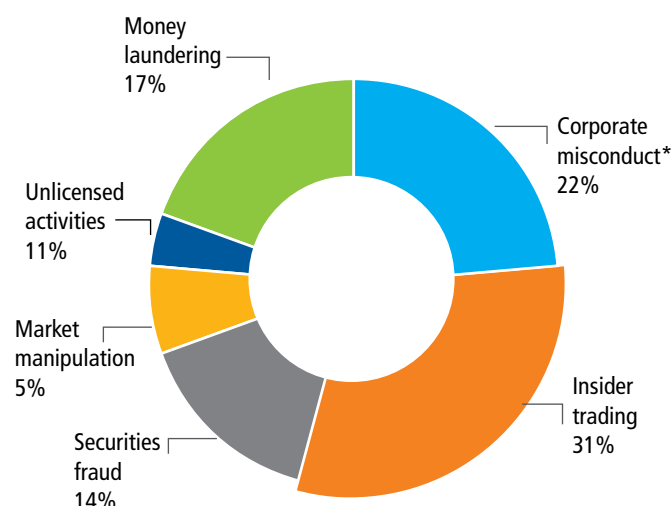
TABLE 6
Breakdown of nature of cases by number of cases and individuals

Type of offence	No. of cases	No. of individuals
Corporate misconduct*	8	14
Insider trading	11	13
Securities fraud	5	11
Market manipulation	2	3
Unlicensed activities	4	5
Money laundering	6	10

Note:

* Includes disclosure and falsification breaches under securities laws.

CHART 2
Breakdown of nature of cases by percentage



Note:

* Includes disclosure and falsification breaches under securities laws.

Enforcement Actions 2022

Criminal Actions

The SC initiated 47 criminal charges against 6 individuals for various securities offences including securities and derivatives fraud, money laundering, unlicensed activities as well as non-compliance of notices issued by the SC's Investigating Officer in connection with an investigation.

Also in 2022, the SC managed to secure convictions against 9 individuals involved in various breaches of securities laws such as market manipulation, unlicensed activities, false financial disclosures and failure to appear before an Investigating Officer of the SC in connection with a money laundering investigation. The sentence imposed by the courts upon these convictions were imprisonment terms ranging from one day to one year, and total fines amounting to RM12,958,000.

The SC with the written consent of the Public Prosecutor (PP) also issued compound notices against 4 individuals and 1 PLC for false financial disclosures and against 1 individual for falsification of records which resulted in total compound payments amounting to RM16,000,000.

As for criminal appeals, in 2022, the SC obtained 2 favourable outcomes at the Court of Appeal and High Court respectively for offences involving criminal breach of trust and misleading financial disclosures.



Civil Enforcement Actions in 2022

Civil Actions

In 2022, the SC initiated civil enforcement actions against 5 individuals. A total of RM4,584,319 was disgorged from 6 individuals who entered into regulatory settlements and a further RM3,667,858 was disgorged from 1 individual through a consent judgment entered into with the SC. As for contested cases, in 2022, the SC was successful in obtaining judgments against 5 individuals who were found liable for various securities breaches and ordered to pay disgorgement sums amounting to RM10,744,304. In addition, a total of RM5,800,000 in civil penalties was also obtained by the SC for the year 2022. The SC also obtained favourable outcomes in 2 civil appeals and 2 leave applications.

As of 31 December 2022, a total of RM1,532,294 was restituted to 284 investors. A further RM815,549 was earmarked for further restitution involving 392 investors. Through the SC's civil enforcement actions, 1 individual was restrained from trading in the stock exchange while 6 more individuals were barred from becoming directors of PLCs.



**1 case civil
action filed**



**5 individuals
involved**



**Judgments obtained
(full trial/Judgment in
Default) 4 cases involving
5 individuals**



**Consent judgments
recorded: 1 case
involving 1 individual**



**Civil appeals
2 cases involving
2 individuals**



**Civil applications
2 cases involving
2 individuals/entities**



**RM27,941,564
amount disgorged**



**RM5,800,000
amount of civil
penalties**

REGULATORY SETTLEMENTS



**3 regulatory
settlements entered**



**6 individuals
involved**



**Amount disgorged
RM4,584,319**

RESTITUTION



RM1,532,294
amount restituted



284 individuals
investors restituted



RM815,549
amount earmarked
for further restitution



392 investors
earmarked for
further restitution

RESTRAINING AND BARRING ORDER

No. of individuals restrained from trading
on Bursa Malaysia



1 director of PLC

No. of individuals barred as directors



5 directors
of PLCs



1 private
individual