

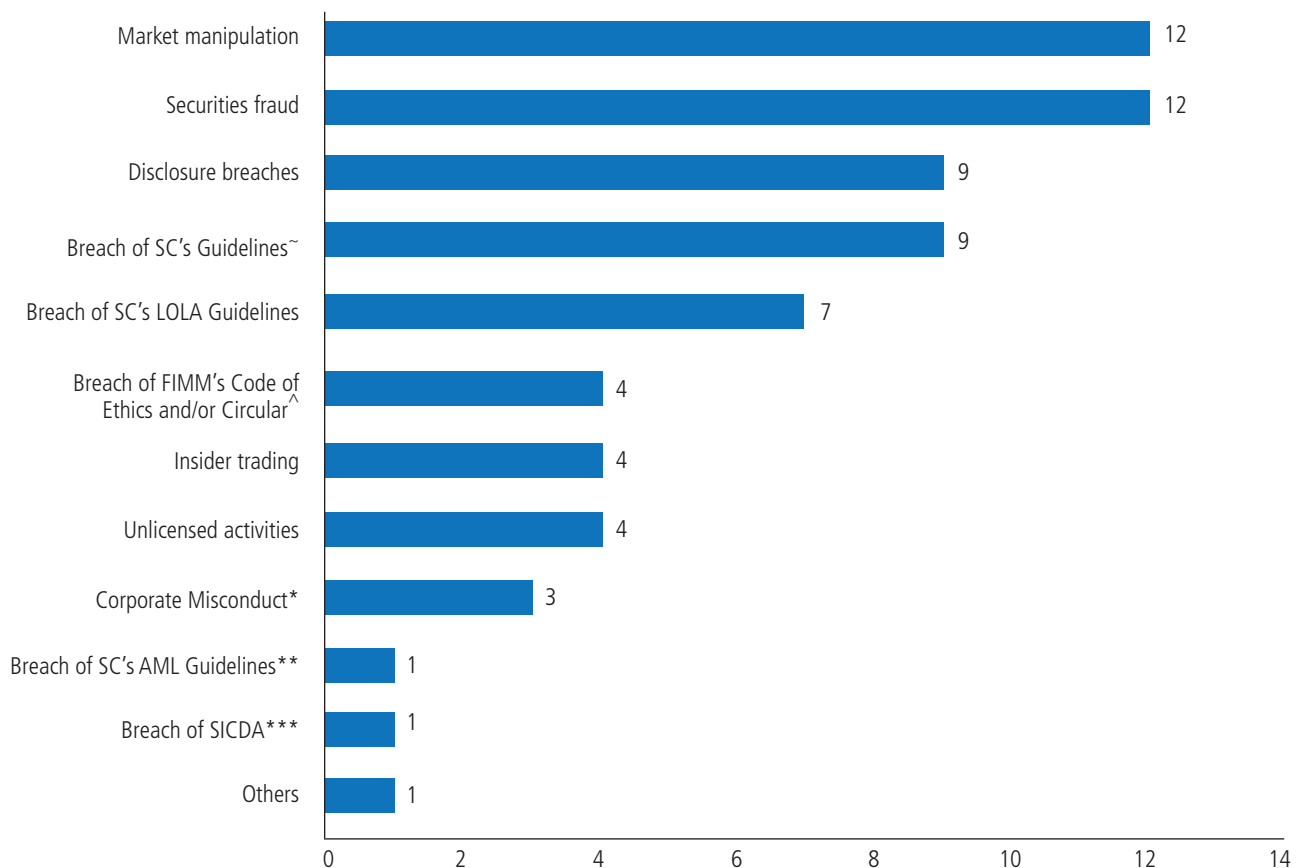
# ENFORCEMENT

In 2020, the SC reviewed 67 possible capital market breaches arising mostly from active surveillance of market and corporate activities, supervision and complaints. More than half of these breaches were attributed to securities fraud, market manipulation, disclosure related and the SC Guidelines breaches (Chart 1).

As of 31 December 2020, there were 38 active investigations (Chart 2). Substantial resources were dedicated to conduct investigation of securities fraud and market manipulation offences, on which has been an increasing trend since 2016 (Chart 3).

CHART 1

## Total referral by nature of offence



<sup>~</sup> Other than SC's LOLA and AML Guidelines

<sup>^</sup> Federation of Investment Managers Malaysia

<sup>\*</sup> Other than Disclosure breaches

<sup>\*\*</sup> Guidelines on Prevention of Money Laundering and Terrorism Financing for Capital Market Intermediaries

<sup>\*\*\*</sup> Securities Industry (Central Depositories) Act 1991

CHART 2

Active investigations by nature of offences

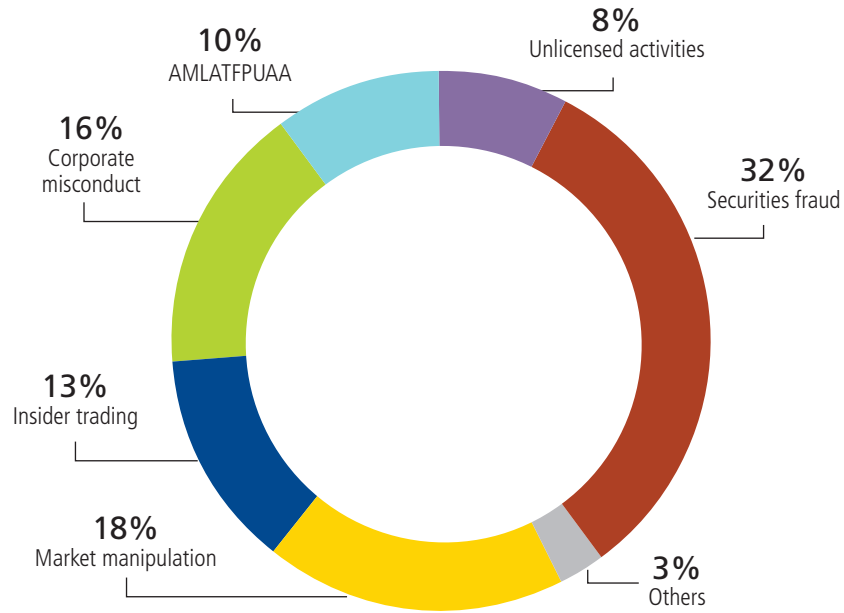
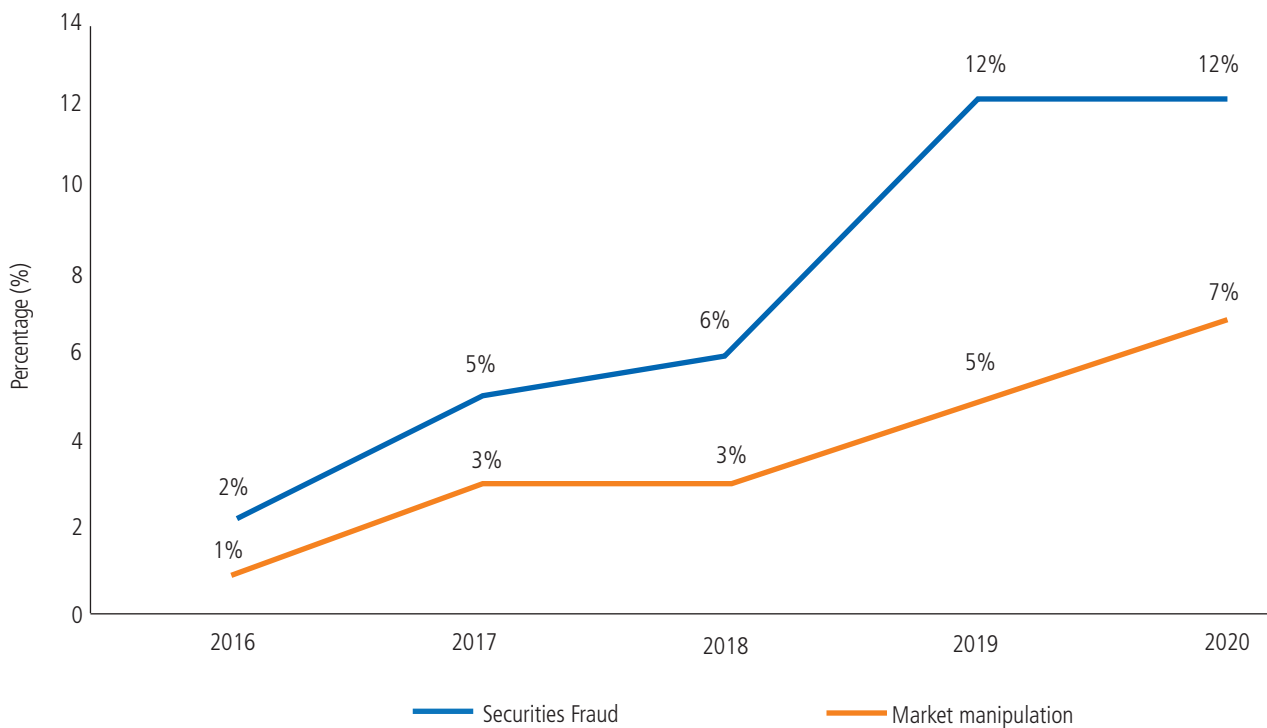


CHART 3

Uptrend of active investigations involving securities fraud and market manipulation offences from 2016 to 2020



The SC's Investigating Officers are given an array of investigative powers under the SCMA to facilitate the gathering of admissible evidence. This includes the power to obtain documentary and oral evidence, which form an integral part of the investigative process. In 2020, the SC searched 5 premises to gather relevant information and documents. A total of 162 boxes of documents and 6 digital devices have been seized from these premises. Electronic documents were extracted from the digital devices and analysed by the SC's digital forensics team.

In 2020, the SC's Investigating Officers recorded formal witness statements from 142 individuals. More than 75% of these statements were recorded from investors/securities accountholders, licensed person, professionals (which include auditors, bankers, lawyers and company secretaries as well as directors and senior management of PLCs (Chart 4).

The SC also sought assistance to record statements from witnesses located overseas and to obtain documentary evidence such as banking documents, securities transaction, telephone records as well as information on beneficial ownership of companies from foreign supervisory authorities under the

*IOSCO Multilateral Memorandum of Understanding on Consultation and Co-operation and Exchange of Information.*

The SC made 18 requests for investigative assistance to 8 foreign supervisory authorities (Table 1). The SC rendered assistance to 4 foreign assistance supervisory authorities in relation to 5 requests for investigation assistance.

## Administrative Actions

In 2020, a total of 45 administrative sanctions were imposed by the SC for various misconducts and breaches of securities laws including issuance of an abridged prospectus containing information from which there is a material omission, breaches of licensing conditions, 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 licence, imposition of penalties and directives and requirement to make restitution (See Table 2).

CHART 4

### Witness statements recorded in 2020 by type of witness

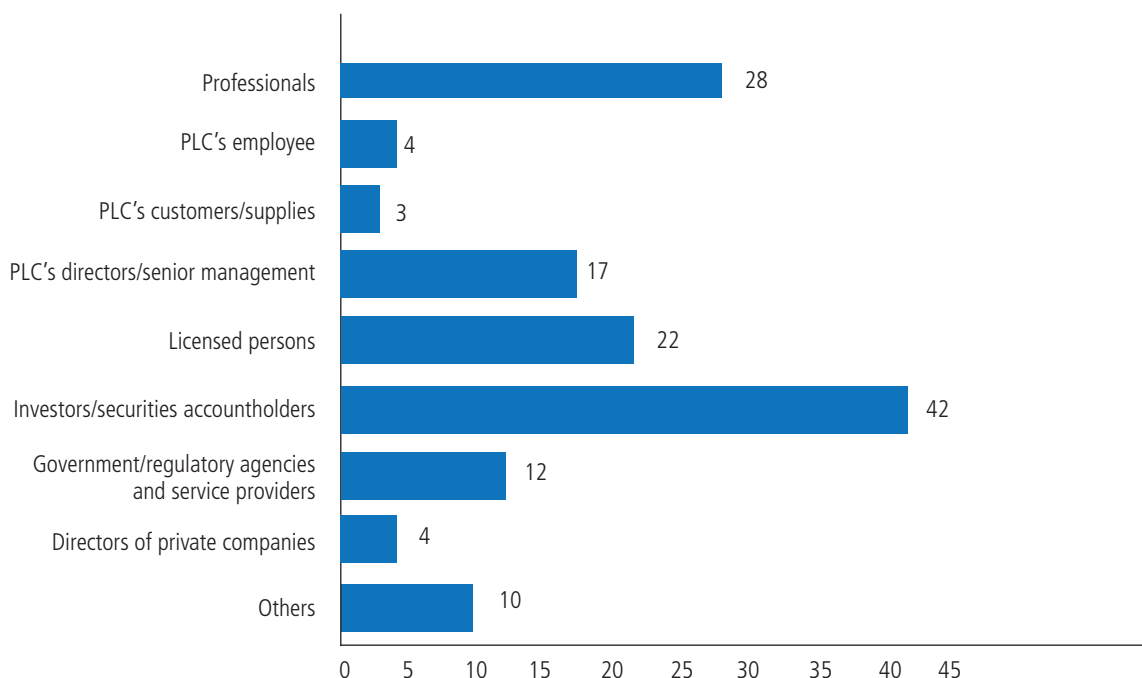


TABLE 1

**Requests for investigative assistance**

Jurisdictions	No. of requests
British Virgin Island	3
Hong Kong	3
India	1
Japan	1
Jersey	1
Luxembourg	2
Singapore	4
United Kingdom	3
<b>TOTAL</b>	<b>18</b>

In 2020, a total of RM1.29 million in penalties were imposed against the following parties:

- A chief executive officer and directors of a PLC for authorising the issuance of an abridged prospectus containing information from which there is a material omission;
- A principal adviser for causing the issuance of the aforementioned abridged prospectus containing information from which there is a material omission;
- A licensed intermediary for delay in submitting the monthly statistical returns for wholesale funds;

TABLE 2

**Administrative actions taken in 2020 by types of sanction and parties in breach**

Parties in breach	Types of sanctions				
	Reprimand	Revocation/ Suspension of Licence	Penalty	Directive	Restitution
Licensed persons	9	1	2	3	1
PLCs or company applying for listing	1	-	-	-	-
Directors/senior management of PLC or company applying for listing	9	-	5	-	-
Principal Adviser	1	-	1	1	-
Persons acting in concert	3	-	1	-	-
Other individuals <sup>1</sup>	3	-	3	-	1
<b>TOTAL</b>	<b>26</b>	<b>1</b>	<b>12</b>	<b>4</b>	<b>2</b>

<sup>1</sup> 2 individuals who allowed third persons who are not the beneficial owners of their CDS accounts to dispose shares through the accounts, and a unit trust consultant who had committed misconduct in breach of the FIMM's *Code of Ethics and Rules of Professional Conduct* (Unit Trust Funds).

- A licensed individual for engaging in an act, practice or course of business which operated as a fraud directly in connection with the subscription, purchase and sale of securities and derivatives;
- 2 individuals who allowed third persons who are not the beneficial owner of their CDS accounts to dispose shares through the accounts;
- A unit trust consultant who had committed misconduct in breach of the FIMM's *Code of Ethics and Rules of Professional Conduct* (Unit Trust Funds); and
- Persons acting in concert who had increased their collective shareholdings to more than 33% without undertaking a mandatory offer hence constituted a breach under the take-overs and mergers provisions.

## Ongoing Court Cases for 2020

For the year 2020, there were 34 ongoing cases at various level of courts from the Sessions Court up to the Court of Appeal involving 62 individuals. (Table 3)

TABLE 3

### Ongoing cases in courts

Court	No. of cases	No. of individuals
Sessions Court	17	28
High Court (Criminal)	4	4
High Court (Civil)	8	22
Court of Appeal	5	8
<b>TOTAL</b>	<b>34</b>	<b>62</b>

The nature of cases ranges from insider trading (50%), corporate governance related breaches such as financial misstatement and financial disclosure (17%), securities fraud (9%), market manipulation (9%), unlicensed activities (6%) and AMLATFPUAA (9%) (Chart 2) (Table 4).

TABLE 4

### Breakdown of nature of cases by number of cases and individuals

Type of offence	No. of cases	No. of individuals
Corporate governance	6	12
Insider trading	17	25
Securities fraud	3	5
Market manipulation	3	6
Unlicensed activities	2	10
AMLATFPUAA	3	4
<b>TOTAL</b>	<b>34</b>	<b>62</b>

## Civil Enforcement Actions 2020

In 2020, the SC initiated civil enforcement action against 14 individuals. This includes an *ex parte* injunction to freeze assets amounting to RM169,223,500.00 from 3 defendants suspected to be involved in a securities fraud. This injunction order was obtained via the SC's first online injunction application during the MCO.

A total of RM11,955,894.63 was disgorged from 18 individuals by way of regulatory settlements and a further RM1,228,752.00 was disgorged through consent judgment from 4 individuals. This is on top of a disgorgement against an individual amounting to RM2,089,402.00 obtained by the SC from a full judgement. A total of RM2.2 million payment of civil penalty was also obtained by the SC for the year 2020.

As of 31 December 2020, a total of RM3,868,679.24 have been restituted to 533 investors. A further RM4,339,821.62 have been earmarked for further restitutions involving 1,205 investors. Through its civil enforcement action, 15 individuals were restrained from trading in the stock exchange while 16 individuals were barred from becoming a director of PLC.

Further details on the SC's Civil Enforcement Action are available in the SC's website via this link, <https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/civil-action-in-2020>.

## Criminal Action 2020

In 2020, the SC managed to secure convictions against 5 individuals involved in various breaches of securities laws such as securities fraud, false financial disclosure, insider trading and failure to appear before an investigation officer for a money laundering investigation.

The sentence imposed through these convictions include a jail period of up to 6 months and total fines of RM5,884,500.00.

A total of RM1.2 million was also collected by the SC through payment of its compound.

Further details on the SC's Criminal Action are available in the SC's website via this link, <https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2020>.