

## Strengthening Redress Mechanisms for Investor Protection

The SC's efforts to strengthen accountability and market integrity are complemented by the resolution of investors' claims through a dispute resolution mechanism. The Securities Industry Dispute Resolution Center (SIDREC) provides retail investors with a specialist independent and impartial avenue to resolve claims that they may have against a SIDREC member in an accessible, efficient and effective

manner based on the principle of fairness and reasonableness.

In 2020, SIDREC received 259 claims and enquiries (2019: 290), out of which 103 were eligible disputes<sup>10</sup>. In line with past trends, 90% of the eligible disputes in 2020 were resolved through case management and mediation. The year 2020 witnessed SIDREC spearheading the conduct of mediations and adjudications either fully virtual or on a hybrid basis for claimants.

## ACHIEVING SWIFT AND TARGETED ENFORCEMENT ACTION

### Swift and Effective Enforcement Outcomes Through Utilisation of Available Enforcement Tools

The SC continuously seeks to pursue an enforcement strategy that is proportionate, and yields the most efficient and effective outcomes for each case.

In 2020, the SC recalibrated its enforcement strategy to focus on cases that have caused significant harm involving vulnerable investors, namely fraud, misconduct and unlicensed activities.

A snapshot of some of the SC's key enforcement achievements in 2020 is presented in the *Enforcement Actions 2020*.

<sup>10</sup> Dispute under SIDREC's purview as set out in its Terms of References.

# ENFORCEMENT ACTIONS 2020

## CRIMINAL ACTIONS

In 2020, a total of 10 charges were laid against three individuals for securities fraud and failure to appear before an Investigating Officer. Additionally, convictions were secured against three individuals for cases involving securities fraud and submission of false information.



**3**  
Individuals  
charged



**10**  
Criminal  
charges  
laid



**5**  
Convictions  
obtained



**6 months**  
Custodial  
Sentences



**RM5,884,500.00**  
Fine

## OUTCOME OF CRIMINAL ACTION ON FALSE AND MISLEADING INFORMATION AND SECURITIES FRAUD

### FURNISHING FALSE AND MISLEADING INFORMATION

Former Chief Executive Officer and Executive Director of Transmile Group Bhd (Transmile) Gan Boon Aun (Gan BA) was convicted by the Sessions Court for furnishing a misleading statement to Bursa Malaysia in relation to Transmile's revenue as reported in the company's Quarterly Report on Unaudited Consolidated Results for the Financial Year ended 31 December 2006. Gan BA was sentenced to a fine of RM2.5 million (in default, 18 months imprisonment) and 1-day imprisonment.

Dato' Dr Haji Mohd Adam Che Harun, former Executive Chairman of Megan Media Holdings Bhd (MMHB) had his conviction affirmed by the Court of Appeal for an offence of furnishing false information to Bursa Malaysia. The false information was in relation to the revenue in MMHB's Quarterly Report on Consolidated Results for the Financial Period ended 31 January 2007. The Court of Appeal also reinstated the 18 months imprisonment term, which was imposed by the Sessions Court and maintained the RM300,000 fine.

### SECURITIES FRAUD

Afkariah Md Noraini (Afkariah), a former unit trust consultant pleaded guilty to four charges of securities fraud and was sentenced to 6 months imprisonment and RM1 million fine (in default 1-month imprisonment) for each charge by the Sessions Court. Afkariah was charged with securities fraud for deceiving four individuals in relation to a purported investment scheme with RHB Investment Bank Bhd amounting to RM50,000.

## CIVIL ACTIONS

The SC's civil actions in 2020 are as follows:

### Civil actions



**6 cases**

Civil actions  
filed



**1**

Full judgement obtained  
after full trial

**RM3,318,154.00**

Amount  
disgorged



**14**

No. of individuals  
/entities involved



**4 Individuals**

Consent judgment  
recorded

**RM2.2 million**

Civil penalties  
imposed

### Regulatory settlements

**3 cases**

Regulatory settlements  
entered

**18**

No. of individuals/  
entities involved

**RM11,955,894.63**

Amount  
disgorged

## RESTITUTION



**RM3,868,679.24**

Amount  
restituted



**533**

No. of investors  
restituted



**RM4,339,821.62**

Amount earmarked for  
further restitution



**1,205**

No. of investors  
earmarked for  
further restitution

## CIVIL ACTION ON SECURITIES FRAUD, MARKET MANIPULATION AND INSIDER TRADING

### SECURITIES FRAUD

A civil action was initiated by the SC on 5 May 2020 against Wong Shee Kai (Ricky Wong), Teh Sew Wan and Wong SK Holdings Sdn Bhd. The defendants were involved in several schemes to defraud Bright Packaging Industry Bhd (Bright Packaging) through its rights issue, private placement and ESOS exercises.

Arising from this civil action, the SC managed to obtain an *ex parte* injunction against the defendants on 5 May 2020. The *ex parte* injunction prohibits the defendants from dealing with their assets and properties to the value of approximately RM169 million. The order also requires the defendants to disclose a full, complete and accurate account of their respective assets within and outside Malaysia.

The Public Prosecutor also filed a Notice of Motion for an asset forfeiture against Wong SK Holdings Sdn Bhd and Ricky Wong under section 56 of the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001* (AMLATFPUAA) to forfeit 5,792,000 units of Bright Packaging shares held in RHB Investment Bank equity account, belonging to Wong SK Holdings Sdn Bhd.

### MARKET MANIPULATION

On 8 May 2020, the SC filed a civil suit against Toh Lean Seng, Tham Yoke Sing, Lee Ai Peng, Yap Wai Fong and Lee Beng Huat in connection with an alleged false trading and market rigging transaction involving the trading of Reliance Pacific Bhd (RPB) shares. In carrying out the market manipulation activity, the SC contended that the Defendants solely and/or jointly with another group of individuals have colluded and/or participated in carrying out the market manipulation activity through 38 CDS accounts maintained at various stock brocking companies.

### INSIDER TRADING

On 4 November 2020, the High Court found in favour of the SC, that Dato' Sreesanathan Eliathamby (Sreesanathan) had acquired 600,000 shares in Worldwide Holdings Bhd (Worldwide) between 7 June 2006 and 11 July 2006 while in possession of material non-public information.

The High Court had found that Sreesanathan, a senior partner in a law firm that served as a legal adviser for the proposed privatisation of Worldwide, was in possession of material non-public information in relation to the exercise by Perbadanan Kemajuan Negeri Selangor, by way of a member's scheme of arrangement under Section 176 of the *Companies Act 1965*. The privatisation was announced to Bursa Malaysia on 23 August 2006.

Sreesanathan was ordered to pay RM1.99 million to the SC, which is three times the profits gained because of insider trading. He was also ordered to pay the regulator a civil penalty of RM1 million and is barred from being a director of any listed company for 10 years starting from 18 November 2020.

## RESTRAINING ORDER FROM TRADING ON BURSA MALAYSIA FOR A PERIOD OF UP TO 5 YEARS



**5**  
Directors of  
PLCs



**3**  
Licensed  
persons



**7**  
Private  
individuals

## INDIVIDUALS BARRED AS DIRECTOR



**6**  
Directors of  
PLCs



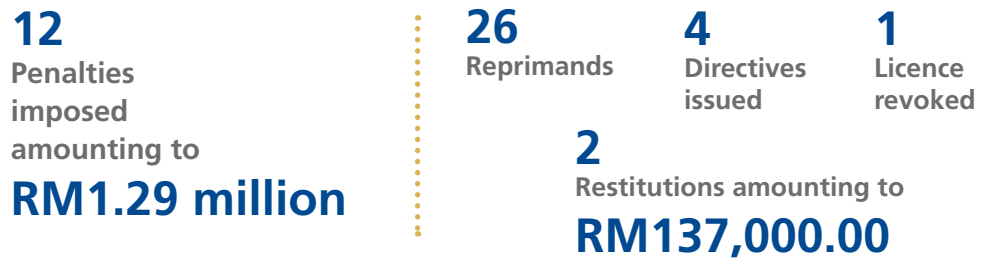
**2**  
Licensed  
persons



**8**  
Private  
individuals

## ADMINISTRATIVE ACTIONS

Various types of administrative sanctions were imposed against capital market intermediaries, professional advisors, listed companies and their directors for various breaches of securities laws and guidelines:



### SANCTIONS WERE IMPOSED FOR, AMONG OTHERS:

#### FRAUD AND MISREPRESENTATION

- Failure to supervise and monitor its marketing representatives and ensure compliance with various SC's guidelines, resulting in misrepresentation to investors



**45**  
ADMINISTRATIVE  
SANCTIONS  
IMPOSED



The SC reprimanded BIMB Investment Management Sdn Bhd (BIMB) and issued a directive against BIMB for breach of provisions in various SC's guidelines, such as the *Licensing Handbook*, *Guidelines for Marketing Representatives*, *Guidelines on Unit Trust Funds* and *Guidelines on Sales Practices of Unlisted Capital Market Products*.

BIMB's misconduct included failure to supervise and ensure compliance with relevant guidelines, failure to exercise reasonable care and diligence, failure to ensure actions by referrers or marketing representatives are within permitted referral and marketing activities, and failure to have proper policies and procedures to monitor its referrers or marketing representatives.

- Fraudulent sale and purchase of securities and derivatives by a licensed individual



The SC reprimanded Muhamad Nur Syafiq Mat Sari and required him to make restitution to his victim as well as imposed a penalty on him for engaging in an act, practice or course of business, which operated as a fraud in relation to sale and purchase of securities and derivatives.

#### MATERIAL OMISSION OF INFORMATION TO INVESTORS

The SC sanctioned Pasdec Holdings Bhd (Pasdec) together with its board of directors for authorising the issuance of an abridged prospectus containing material omission of information. Pasdec and the directors were reprimanded, while some of its directors were imposed penalties. The SC also reprimanded, imposed a penalty and a directive against RHB Investment Bank, the principal adviser of Pasdec for causing the issuance of the said abridged prospectus.

## SC's Investigation on the Goldman Sachs Group, Inc. (GSG) Entities

The SC completed its investigation on Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte for engaging in a scheme to defraud the Government of Malaysia (GOM) and 1Malaysia Development Bhd (1MDB) in the issuance of three bonds namely:

- US\$1.75 billion 5.99% Guaranteed Notes due in 2022 issued by 1MDB Energy Ltd;
- US\$1.75 billion 5.75% Guaranteed Notes due in 2022 issued by 1MDB Energy (Langat) Ltd; and
- US\$3 billion 4.40% Notes due in 2023 issued by 1MDB Global Investments Ltd.

Following Tim Leissner's plea of guilt on 28 August 2018 for conspiring to commit money laundering and conspiring to violate the U.S. *Foreign Corrupt Practices Act* by both paying bribes to various officials and circumventing internal accounting controls of GSG's entities before the U.S. District Court, Eastern District of New York, Goldman Sachs Malaysia Sdn Bhd was also queried by the SC as Tim Leissner was a director on its board during the material time.

As the SC's investigation forms part of GOM's settlement negotiation with GSG, the SC's team provided input and support to the Attorney-General throughout the negotiation leading to US\$3.9 billion settlement with GSG. The settlement agreement comprised among others, GSG making a cash payment of US\$2.5 billion and providing an asset recovery guarantee of US\$1.4 billion to the GOM.

## Sanctions Against Errant Registrants

The AOB has taken six separate administrative actions in 2020 on errant registrants to reinforce the importance for the AOB registered audit firms to uphold the quality of their audit engagements. The actions consist of

one prohibition, three monetary penalties and two prohibitions with monetary penalties. Enforcement actions imposed against audit firms and auditors were based on the level of severity and impact of the deficiencies found from the AOB's inspection findings.

## 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 do not warrant the initiation of a formal enforcement action, or the imposition of an administrative sanction.

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 *Securities Commission Malaysia Act 1993* (SCMA).
- **Warning letters** – issued pursuant to the discharge of the SC's gate-keeping 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 and experts.
- **Non-compliance letters** – issued pursuant to the discharge of the SC's gate-keeping function for minor breaches.
- **Cease and desist letters** – issued to stop or prevent violation of securities laws. Cease and desist letters 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 2020, a total of 71 infringement notices were issued by the SC as detailed below:

Type	Total
Supervisory letter involving infringement	22
Warning letter	7
Non-compliance letter	40
Cease and Desist letter	2
<b>Total</b>	<b>71</b>

### The High Court Upholds the SC's Decision to Impose Penalties Upon Deloitte PLT (Deloitte)

On 24 December 2020, the High Court dismissed Deloitte's judicial review application to set aside the SC's sanctions against Deloitte for its failure to discharge its reporting obligations under the CMSA, which consists of reprimands and penalties of RM2.2 million. The High Court also awarded costs in the sum of RM20,000 to be paid by Deloitte to the SC.

In 2019, the SC imposed sanctions upon Deloitte for its failure to immediately report to the SC on irregularities, which may have a material effect on the ability of Bandar Malaysia Sdn Bhd to fulfil its obligations in repaying its sukukholders under the *Sukuk Murabahah* Programme.

Deloitte has filed an appeal to the Court of Appeal to challenge the High Court's decision.

### Collaboration with Other Law Enforcement Agencies and Cross-Border Investigations

In various efforts to ensure successful outcome of the SC's investigations, collaboration and sharing of information with other law enforcement agencies locally and outside of Malaysia is crucial. In this regard, the SC continues to have regular dialogues with its foreign counterparts on enforcement and supervisory matters while providing assistance and information-sharing via the IOSCO's Multilateral Memorandum of Understanding (IOSCO MMoU). The SC's enforcement team works closely with fellow regulators under the IOSCO MMoU Concerning Consultation and Cooperation and the Exchange of Information.

Strong enforcement co-operation through this global information-sharing network has strengthened the SC's enforcement capabilities to deal with cross-border market misconduct. In 2020, the SC liaised with eight jurisdictions under the IOSCO MMoU in pursuit of cross-border investigations and enforcement of securities laws.