

Recent SFC enforcement action demonstrates increased scrutiny of licensed fund managers

The Securities and Futures Commission (“SFC”) has been monitoring the asset management industry more closely in recent years, having issued multiple circulars on 25 November 2024, 9 October 2024 and 27 March 2024 on issues such as asset management operations, misconduct and deficiencies, and taken enforcement actions against asset managers¹.

On 28 August 2025, the SFC announced² enforcement actions against two licensed asset managers, Nerico Brothers Limited (“NBL”) and Amber Hill Capital Limited (“AHCL”), in connection with serious misconduct involving the misappropriation of client funds, the fabrication of transaction/financial documents and provision of false information to the SFC during its investigation. The SFC concluded that the entities and individuals involved were guilty of misconduct and that their fitness and properness to carry on regulated activities have been fundamentally or seriously called into question. These enforcement actions highlight the SFC’s enhanced regulatory focus on the fund management industry and serve as a reminder of the importance of Hong Kong-based fund managers and their senior management’s adherence to the applicable regulatory requirements.

The SFC’s key findings

Misuse of client funds

A client deposited over US\$77 million with NBL for spot forex trading. However, the SFC found that NBL misused over US\$68 million of such funds to subscribe for shares in two segregated portfolios of a Cayman-incorporated fund (“Fund”) on six occasions and retained the profits for itself, without the client’s knowledge or consent.

NBL’s misuse of funds not only violated the client agreement but also breached General Principle 8 and paragraph 11.1(a) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (“Code of Conduct”) (which require licensed persons to ensure that client assets are promptly and properly accounted for and adequately safeguarded).

Misappropriation of client assets

In an elaborate scheme, NBL transferred around US\$172 million of the client’s funds to the Fund for the purported acquisition of “liquidity provider units” (“LP Units”) from the Fund. In fact, the Fund did not issue or hold any LP Units. AHCL (the manager of the Fund) accepted the funds and directed a transfer of a substantial amount of such proceeds to a corporate vehicle of AHCL’s former director, whilst using some proceeds for the Fund’s own purposes. The total amount of funds that were misappropriated was around US\$154 million. As part of the scheme, AHCL made false representations and fabricated financial documents to mislead the Fund’s auditors and investors, and NBL fabricated transaction documents for the purported acquisition.

The SFC found that this misconduct constituted breaches of General Principle 1 (which requires licensed persons to act honestly, fairly, and in the best interests of their clients and the integrity of the market in conducting their business activities), General Principle 8 (above), paragraph 2.1 (which requires licensed persons advising or acting on behalf of clients to ensure that any representations made and information provided to clients are accurate and not misleading) and paragraph 11.1(a) (above) of the Code of Conduct, as well as paragraph 7.1 of the Fund Manager Code of Conduct (“FMCC”) (which requires fund managers to ensure that any representations made or information supplied to any fund investor is accurate and not misleading).

¹ See SFC’s press releases dated 19 March 2025, 20 June 2024, 5 February 2024, 4 December 2023, 30 January 2023 and 27 June 2022 respectively.

² See SFC’s press releases dated 28 August 2025 at <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=25PR134> and <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=25PR133>.

Provision of false information to SFC during investigation

During the SFC's investigation, NBL represented that the client's funds were used to acquire LP Units issued by the Fund and another Cayman-incorporated fund, and produced different sets of fabricated transaction documents and account statements in support. These representations were false, as neither fund had issued any LP Units for acquisition at the material time.

These constituted offences under section 180(15) (in respect of inquiries under section 180) and section 184(2) (in respect of inquiries under section 183) of the Securities and Futures Ordinance (Cap. 571) ("SFO") for knowingly or recklessly producing any record or document or stating anything that is false or misleading to the SFC.

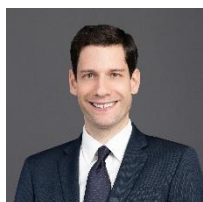
In light of the above findings of misconduct, the SFC revoked the licence of NBL and AHCL, both being licensed corporations under the SFO. The SFC also banned NBL's director and AHCL's then senior management from engaging in any regulated activities for life.

Takeaways

1. **Increased regulatory scrutiny over the fund management sector:** The cases highlight the SFC's continued effort to intensify its oversight of asset managers, with a clear focus on operational integrity and client asset protection. Firms should expect more frequent inspections and deeper probes into governance and compliance practices.
2. **Reminder to comply strictly with regulatory duties and other legal obligations:** The cases underscore the importance of strictly adhering to the relevant contractual arrangements with clients as well as all applicable laws and codes, including the SFO, the Code of Conduct, the FMCC and the Management, Supervision and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission. Missteps can lead to severe sanctions, including licence revocation and lifetime bans.
3. **Risk of disciplinary action against non-licensed persons:** The SFC has shown its willingness to take action not only against licensed persons but also against non-licensed individuals involved in the management of the business of licensed corporations (who fall within the ambit of "regulated persons" under section 194(7) of the SFO). This was the case for NBL's director and AHCL's former senior management, both of which were sanctioned and banned from engaging in all regulated activities for life.

Please contact us if you would like to discuss any of the matters raised in this update.

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