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Court of Final Appeal to hear Moody's case

7 Feb 2018

The Court of Final Appeal today granted leave to Moody's Investors Service Hong Kong Limited's (Moody's) to take the case to the Court of Final Appeal in the matter of the Securities and Futures Commission's (SFC) disciplinary action in relation to a special comment report it published in 2011 (the Report) (Note 1).

The issue for the Court of Final Appeal to determine is whether the publication of a report having features such as those contained in the Report constitutes "misconduct" within the definition of section 193 of the Securities and Futures Ordinance (SFO) (Note 2).

The date for the hearing has yet to be fixed.

End

Notes:

1. Please see SFC's press releases dated [5 April 2016](#), [8 June](#) and [17 October 2017](#).
2. Under section 193 of the SFO, "misconduct" means, among other things, an act or omission relating to the carrying on of any regulated activity for which a person is licensed or registered which, in the opinion of the Commission, is or is likely to be prejudicial to the interest of the investing public or to the public interest.

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FAMV No. 42 of 2017

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IN THE COURT OF FINAL APPEAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
MISCELLANEOUS PROCEEDINGS NO. 42 OF 2017 (CIVIL)

(On APPLICATION FOR LEAVE TO appeal from

CACV No. 103 of 2016)

Between

MOODY'S INVESTORS SERVICE HONG
KONG LIMITED

Applicant

and

SECURITIES AND FUTURES
COMMISSION

Respondent

Appeal Committee : Mr Justice Ribeiro Acting CJ, Mr Justice Tang PJ and Mr Justice Fok PJ

Date of Hearing and Determination : 7 February 2018

D E T E R M I N A T I O N

Mr Justice Ribeiro Acting CJ:

1. We grant leave to appeal on the following question, namely:

“Does publication of a report having features such as the features contained in the applicant’s Special Comment Report constitute misconduct within the meaning of section 193 of the Securities and Futures Ordinance (Cap 571)?”

2. The appeal will be heard on a date to be fixed.

(R A V Ribeiro)

Acting Chief Justice

(Robert Tang)

Permanent Judge

(Joseph Fok)

Permanent Judge

Mr Paul Shieh SC, instructed by Linklaters, for the Applicant

Mr Benjamin Yu SC and Mr Laurence Li, instructed by Securities and Futures
Commission, for the Respondent