

Cross-Border Regulatory Co-operation

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THIS CHAPTER IS ABOUT

- SFC's involvement in IOSCO
- Assisting overseas regulators
- Combating money laundering
- Co-operation with Mainland China
- Financial Sector Assessment Program

What We Do

- Work with overseas regulators under co-operative arrangements;
- Participate actively in international securities regulators forum; and
- Develop and strengthen ties with Mainland authorities.

The SFC has always been an active participant in the global arena, working closely with its overseas and Mainland counterparts to enhance the quality and effectiveness of market regulation. The SFC has continued to strengthen international regulatory co-operation, information sharing and cross-border investigation. We currently have 35 co-operation arrangements with regulatory bodies around the world. Discussions are taking place with three additional jurisdictions in Asia.

In addition, the SFC is in the final stage of discussion with ASIC to establish a MOU on the regulation of investment funds.

IOSCO

Hong Kong actively participates in the International Organisation of Securities Commissions (IOSCO) through committees and projects. Hong Kong, represented by SFC Chairman Andrew Sheng, is a member of the IOSCO Technical Committee consisting of 16 securities regulators from the world's most developed markets.

We are also members of the five Standing Committees (SC) of the Technical Committee that deal with different aspects of securities and intermediaries regulation. The Technical Committee established a high level sub-committee to coordinate and focus IOSCO's response to the securities regulatory issues highlighted by the bankruptcy of Enron and other high-profile business failures around the world. SFC Chairman represents the SFC in this Chairs' Committee comprising Chairs and senior representatives of securities regulators from 12 jurisdictions.

Consequently, IOSCO released three Technical Committee papers prepared by three task forces in October 2002. Mr Sheng co-chaired with Dr Luigi Spaventa, Chairman of the Italian securities regulator CONSOB, the task force responsible for the Principles for Ongoing Disclosure and Material Development Reporting by Listed Entities.

Our Corporate Finance Division participated in the task forces responsible for the Principles for Auditor Oversight, and the Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence.

Mr Sheng and Alexa Lam, Executive Director of Intermediaries and Investment Products, represent the SFC at the Chairs' Committee on Securities Analysts and Credit Rating Agencies.

Mrs Lam is also a member of the Implementation Committee that is currently developing the methodology for assessing implementation of the IOSCO Objectives and Principles of Securities Regulation. During the year, the SFC submitted its comments on the proposed assessment methodology, and responded to self-assessment questionnaires on implementation of these principles.

■ Standing Committees

The Corporate Finance Division participates in SC1 - Accounting and Auditing. SC1 monitors and comments on developments in International Accounting Standards. Our staff play an active role in SC1's Audit Task Force, which reviews and prepares comments on International Standards on Auditing issued by the International Audit and Assurance Standards Board.

In November, we hosted a two-day meeting of the SC1 in Hong Kong, where regulators discussed the latest issues on accounting standards and financial reporting.

The Supervision of Markets Division participates in SC2 on the regulation of secondary markets. During the year, we responded to survey questionnaires on trading halts and market closures, short selling transparency, share buy-back and the Technical Committee's mandate on indexation, and provided inputs on the reports on these subjects.

IOSCO and the Committee on Payment and Settlement Systems (CPSS) published recommendations proposed by their joint task force to promote the efficiency and effectiveness of securities clearing and settlement systems (SSS). The Division provided inputs to the task force on the assessment methodology report on the SSS recommendations and participated in the task force's new mandate on the risk management of central counterparty. It also assisted the work of the Group of Thirty on clearing and settlement.

The Intermediaries Supervision Department participates in SC3 and contributes to projects on the regulation of market intermediaries. During the year, we responded to the survey questionnaires on regulation of market intermediaries in a cross-border environment.

The Enforcement Division is active in SC4, which aims to enhance co-operation, enforcement and information sharing among regulators. After the 911 incident in 2001, IOSCO created a special project team to explore actions that securities regulators should take. One of the areas the team examined was co-operation and information sharing among securities regulators to combat financial crime and misconduct.

To achieve this, IOSCO adopted a Multilateral Memorandum of Understanding (MMOU), which is the first multilateral international arrangement of its type among financial market regulators. The SFC is a signatory, together with regulators from other major jurisdictions including the US, UK, Australia and Canada. This arrangement greatly enhances regulatory co-operation and information sharing among all signatories.

During the year, the Enforcement Division also participated in SC4's Task Force on Client Identity/Beneficial Ownership, which examines the application of the Financial Action Task Force (FATF) Forty Recommendations on client identity to financial institutions.

The Investment Products Department participates in SC5 on investment management. During the year, the SC5 considered issues on retail participation in hedge funds, index funds and the use of indices, corporate governance responsibilities of funds as shareholders, best practice standards on fund performance reporting, suspension of redemptions in times of market volatility, simplified fund prospectuses, fees and other costs of asset management services, and risk assessment of fund operators.

IOSCO and the Internet

On 24 and 25 June 2002, the SFC hosted the Asian Roundtable for Internet Project Team of the IOSCO, at which regulators discussed trends and risk profile of securities trading on the Internet.

On 30 September 2002, the Enforcement Division took part in the Internet Surf Day organised by the Asia-Pacific Regional Committee of IOSCO. We joined 12 other participating regulators within the Asia-Pacific Region, including Mainland China, Australia, Thailand and Singapore, to surf the Internet to identify possible fraudulent or abusive activities relating to the securities and futures markets. The SFC identified five websites suspected of offering unregistered dealing or investment services to the Hong Kong public for follow-up action.

Assisting Overseas Regulators

Last year, the Enforcement Division received 41 requests for enforcement-related assistance: 13 were requests for investigatory assistance involving the SFC in the exercise of its statutory powers; and 28 were requests for public or non-public information. On the other hand, we made 20 requests to overseas regulators and, of these, 14 were requests for investigatory assistance. In respect of licensing-related matters, the SFC received 200 requests from overseas regulatory authorities and made 451 requests.

| | 2002-2003 | | 2001-2002 | | 2000-2001 | |
|---|------------|------------|------------|------------|------------|------------|
| | In | Out | In | Out | In | Out |
| Enforcement-related requests for investigatory assistance | 13 | 14 | 13 | 15 | 16 | 16 |
| Enforcement-related requests for information | 28 | 6 | 36 | 6 | 25 | 5 |
| Licensing-related requests for information | 200 | 451 | 224 | 474 | 214 | 825 |
| Total | 241 | 471 | 273 | 495 | 255 | 846 |

Combating Money Laundering

The Intermediaries Supervision Department continued to participate actively in the work of international anti-money laundering organisations such as the FATF and the Asia Pacific Group (APG). Last year, we attended the Fifth Annual Meeting of the APG in Australia as a financial expert to present an evaluation report on the anti-money laundering regime of Thailand. We also made a presentation to a group of law enforcement officers from nine countries at the Financial Investigation Course 2002.



Our staff is one of the 150 delegates to the APG meeting in Brisbane.

Co-operation with the Mainland

The Commission and the CSRC continued to work closely during the year. We attended the 29th and the 30th Memorandum of Regulatory Co-operation (MORC) meetings in August 2002 and March 2003 organised by the Shanghai Stock Exchange and HKEx respectively. Executives from the CSRC, the SFC, HKEx, the Shanghai Stock Exchange and Shenzhen Stock Exchange exchanged views on policy initiatives and concerns about regulation of securities markets.

As part of the MORC, the Enforcement Division and the Supervision of Markets Division met with their counterparts at CSRC to discuss market surveillance, enforcement and other cross-border issues on market development. The two commissions also exchanged views on CSRC's abolition of the requirement to review PRC legal opinions in respect of overseas-incorporated companies with Mainland interests seeking to list in Hong Kong and on CSRC's not issuing "No-comment Letters" to these companies.

Financial Sector Assessment Program

Hong Kong participated in the Financial Sector Assessment Program (FSAP) conducted jointly by the International Monetary Fund (IMF) and World Bank. FSAP seeks to alert economies to likely financial vulnerabilities in order to reduce the potential for crisis. The securities sector in Hong Kong was assessed for observance of the IOSCO Objectives and Principles of Securities Regulation, CPSS-IOSCO Recommendations for Securities Settlement Systems, OECD Principles of Corporate Governance, IMF Code on Good Practices on Transparency in Monetary and Financial Policies, and Anti-Money Laundering and Combating the Financing of Terrorism.

Workshops

In March 2003, the SFC also participated in the Fifth International Regulators Technical Workshop hosted by the US Securities and Exchanges Commission to exchange views and improve international co-operation on fund management regulation. Other participants included regulators from the UK, US and Australia.