

Cross-Border Regulatory Co-operation

This Chapter Is About

- >> SFC's involvement in IOSCO
- >> Partnership with other regulators
- >> Combating money laundering
- >> Co-operation with Mainland China

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 developed a successful partnership with the international community and always seeks to contribute to the global efforts to enhance the quality and effectiveness of market regulation. We continue to strengthen regulatory co-operation, information sharing and cross-border investigation with our counterparts in other jurisdictions.

At present, the SFC has 33 bilateral or tri-lateral co-operative arrangements with overseas regulatory bodies. We are discussing arrangements with five other jurisdictions.

During the year, the SFC signed a co-operation agreement with ASIC to strengthen supervision of fund managers (Please see details in *Intermediaries and Investment Products* chapter).

IOSCO

In May 2002, IOSCO adopted the Multilateral Memorandum of Understanding (MMOU), the first multilateral international arrangement of its type among financial market regulators. The SFC was among the first signatories to have signed the MMOU in February 2003, which helps the SFC establish MOU relationship with nine jurisdictions with which it did not already have a co-operative arrangement in place. Regulators from major markets including the US, UK, Germany, France and Canada are also signatories. To date, 25 jurisdictions have signed the MMOU, while another two jurisdictions have indicated a willingness to undertake the necessary reforms to do so.

This arrangement greatly enhances regulatory co-operation among all signatories, allowing regulators worldwide to assist each other in combating cross-border securities fraud, market misconduct, terrorist financing and other financial crimes.

Hong Kong actively participates in the work of IOSCO through committees and projects. Represented by SFC Chairman Mr Andrew Sheng, Hong Kong is a member of the IOSCO Technical Committee, which consists of 15 securities regulators from the world's developed markets.

We are also members of the five Standing Committees of the Technical Committee that deal with different aspects of securities and intermediaries regulation.

At the IOSCO Annual Conference held in Seoul in October 2003, Mr Sheng was appointed Interim Chairman of the Technical Committee until the end of the next Annual Conference to be held in May 2004.



SFC Chairman Mr Andrew Sheng (second from left), joins Mr Dongan Cansizlar (first from left), Chairman of Emerging Markets Committee; Mr Kap Soo Oh (third), Chairman of Presidents' Committee; and Mr Fernando Teixeira Dos Santos, Chairman of Executive Committee, at the closing press briefing of the IOSCO Annual Conference 2003.

Hong Kong was also selected to host the 31st Annual Conference in 2006. This will be the first time that Hong Kong hosts an IOSCO Annual Conference.

In February 2004, the Technical Committee set up a Chairmen's Task Force to deal with the challenges posed by Parmalat, the Italian food company alleged of fraudulent accounting. As a priority, the Task Force will identify potential new issues arising from recent cases (including concerns about transparency in the bond markets, the role of unregulated entities, the role of complex group structures, and appropriate levels of sanctions) and review implementation of existing standards. It will suggest responses aimed at producing appropriate regulatory incentives, such as improving risk identification and assessment by regulators and giving attention to fostering better co-operation among regulators in the exchange of information. The US SEC and Italian CONSOB are co-chairing this Task Force and target to report to the Technical Committee in May 2004.

The Technical Committee had similarly acted quickly to establish Chairs' Committees in the aftermath of the collapse of Enron in December 2001. Three sets of IOSCO principles were issued in October 2002 to strengthen ongoing disclosure and material developments reporting by listed entities, auditor independence and auditor oversight. These high-level principles as well as two other sets issued in September 2003, regarding the activities of credit rating agencies and sell-side analyst conflicts of interest, were well received by the market and the Financial Stability Forum.

➤ **Standing Committees**

The Corporate Finance Division participates in the Standing Committee on Multinational Disclosure and Accounting (SC1). SC1 monitors and comments on international developments in accounting and auditing standards and drafts IOSCO standards relating to disclosure matters. During the year, our staff continued to play an active role in SC1's Audit Task Force, and reviewed and prepared comments on International Standards on Auditing issued by the International Audit and Assurance Standards Board. We also participated in

the IOSCO's work with other international regulators to help the International Federation of Accountants establish its Public Interest Oversight Board.

The Supervision of Markets Division participates in the Standing Committee on the Regulation of Secondary Markets (SC2). During the year, we responded to survey questionnaires on transparency in the trading of corporate bonds and led the consolidation of the survey results and participated in the drafting of the report. We also provided inputs to the final report on stock repurchase programmes.

During the year, the joint task force of IOSCO and the Committee on Payment and Settlement Systems (CPSS) began a review of risk management of central counterparties. We participated in the task force and joined the drafting teams on three recommendations. A report containing 14 recommendations was released for public consultation on 8 March 2004.

The Intermediaries Supervision Department participates in the Standing Committee on the Regulation of Market Intermediaries (SC3). During the year, SC3 published the survey results on regulation of market intermediaries in a cross-border environment, discussed the Basel II Accord on banks' capital adequacy framework and identified issues with high impact to securities firms for discussion with the Basel Committee on Banking Supervision. We were particularly interested in the new outsourcing mandate and commented on the draft outsourcing principles with reference to the experience in Hong Kong.

The Enforcement Division participates in the Standing Committee on Enforcement and Exchange of Information (SC4), which promotes mutual assistance to combat cross-border crimes and misconduct. During the year, SC4 continued to assess applications for membership of the IOSCO MMOU, consider issues of legal and practical difficulties encountered in co-operation between regulators and work on a set of principles for the securities industry on Client Identification and Beneficial Ownership.

Cross-Border Regulatory Co-operation

We are taking an active part in a new SC4 project to look at regulators' needs and ability to preserve and repatriate assets for the victims of fraud. It is anticipated that the project will help identify the issues involved and aim to remove the financial incentive for fraudsters to engage in cross-border crimes and misconduct.

The Investment Products Department participates in the Standing Committee on Investment Management (SC5). During the year, the SC5 considered regulatory issues arising from fund mergers and schemes of amalgamations, money laundering safeguards in the asset management industry, and independent review of collective investment schemes key elements. The SC5 issued two consultation papers in respect of regulatory standards on fees and expenses of investment funds, and best practices on performance presentation standards of investment funds.

Partnership with Other Regulators

During the year, the SFC worked with various overseas securities regulators on joint initiatives to strengthen international co-operation and exchange of ideas on market regulation. In September 2003, SFC staff went to New York to perform a joint inspection with regulators from Australia, UK, and the US at the headquarters of an international fund manager. In March 2004, with the assistance of Taiwan Securities and Futures Commission, we visited the Taiwan branches operated by selected Hong Kong intermediaries to understand their operations.

In addition, we were invited by the Thailand Securities and Exchange Commission and the CSRC to provide training at their local offices on the regulation of futures dealers in November 2003 and January 2004 respectively. Both training sessions were very well received.

During the year, the Enforcement Division received 46 requests for enforcement-related assistance: 11 were requests for investigatory assistance involving the SFC in the exercise of its statutory powers; and 35 were

requests for non-public information. On the other hand, we made six requests to overseas regulators and, of these, four were requests for investigatory assistance and two were for non-public information.

In respect of licensing-related matters, the SFC received 103 requests from overseas regulatory authorities and made 383 requests.

Requests for Regulatory Co-operation		Table 1					
	2003-2004		2002-2003		2001-2002		
	In	Out	In	Out	In	Out	
Enforcement-related requests for investigatory assistance	11	4	13	14	13	15	
Enforcement-related requests for information	35	2	28	6	36	6	
Licensing-related requests for information	103	383	200	451	224	474	
Total	149	389	241	471	273	495	

Combating Money Laundering

In a worldwide effort to combat money laundering and terrorist financing, the Intermediaries Supervision Department, as part of the Hong Kong delegation, attended the Annual Meeting of the Asia Pacific Group on Money Laundering in Macao in September 2003. The Department also took part in the Financial Action Task Force on Money Laundering's (FATF) revision of the FATF 40 recommendations to address problems associated with money laundering and terrorist financing. The revised FATF 40 recommendations were finalised and released in August 2003.



More than 100 delegates participate in the Asia Pacific Group on Money Laundering 2003 Annual Meeting in Macao.

Co-operation with Mainland China

The Commission and the CSRC continued to work closely during the year. We attended the 31st Memorandum of Regulatory Co-operation (MORC) meetings in November 2003 in Beijing organised by the CSRC. 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 met with their counterparts at CSRC to discuss market surveillance, enforcement and other cross-border issues on market development.

Under the CEPA commitments, the SFC also worked with the CSRC to recognise each other's market practitioners' qualification for licensing purpose (Please see details in *Intermediaries & Investment Products* chapter).