

Implementation of the Securities and Futures Ordinance

>> The SFO (Cap.571) consolidates and modernises the 10 ordinances* previously regulating the securities and futures markets in Hong Kong. Effective on 1 April 2003, the SFO and the subsidiary legislation made under it have introduced significant changes to the regulation of the markets. One year on, we are pleased to report that the implementation of the SFO has been successful.

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| Improved Investor Compensation Arrangements | The independent Investor Compensation Company Ltd (ICC) has been set up to administer the Investor Compensation Fund (ICF), providing streamlined compensation arrangements and greater investor protection. ICC came into operation on 1 April 2003 with its own Board of 10 Directors. The claim procedures and documentation for submitting claims have been gazetted. The net asset size of ICF was \$962 million as of 31 March 2004. |
| More Transparent Market Disclosure | The new Disclosure of Interests requirements give a more complete picture of dealings by substantial shareholders and directors. To address common queries and assist compliance by the market, the SFC has issued a revised Outline of Part XV to give guidance on when and how to complete the forms to disclose interests in shares of listed companies. HKEx has also developed a search facility to provide investors with a comprehensive and user-friendly means of searching the "Disclosure of Interests" database. The SFC is now reviewing Part XV with a view to enhancing the disclosure regime. |
| Combating Market Misconduct | A Market Misconduct Tribunal (MMT) has been set up to handle civil cases of all forms of market misconduct. There was no referral to the MMT during the year as many investigations on post SFO events concern significant and complex matters and are still continuing. It is expected that some of these ongoing investigations will be concluded soon and will be considered for referral to the MMT. |
| Dual Filing to Ensure Better Corporate Disclosure | Operation of the Dual Filing arrangement has been smooth and effective. During the year, we received via the SEHK 117 new listing applications and considered it necessary to comment on fundamental issues on 54 of them. Our average response time was seven days. Dual Filing has not caused any additional compliance burden on listing applicants who have prepared adequate draft prospectuses. |

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| <p>A New Single Licensing Regime</p> | <p>The universally applicable single licensing system, with one licence covering all regulated activities which a person is permitted to undertake, results in reduced costs for market operators without compromising investor protection. In the first year of the two-year transitional period, 65% of the intermediaries (520 corporations and 10,635 individuals) had applied to convert their old licences to new ones.</p> |
| <p>Improving the Regulation of Intermediaries</p> | <p>We have imposed tougher disciplinary sanctions on rule-breaking intermediaries under the SFO. During the year, we saw the first life ban of a person in the industry and the first fine. As more investigations on post SFO offences are concluded, we will use the variety of sanctions available under the new regime to punish guilty intermediaries more proportionately.</p> |
| <p>Enhancing SFC's Inspection and Investigatory Powers</p> | <p>The SFO has given us a wider scope to investigate listed companies and related corporations. We focused our resources on this area in 2003-2004. We continued five ongoing investigations from a year ago and conducted 10 new investigations. Five cases have been referred to the Police and we are taking legal advice on two cases about the prospects of seeking orders under Section 214 of the SFO. The section enables the Court to make a range of orders including disqualifications of directors.</p> |
| <p>Facilitating Market Innovation</p> | <p>The SFO provides for a flexible and pragmatic approach to the regulation of Automated Trading Services (ATS) which enable buyers and sellers to deal electronically. Authorisations were granted to five ATS providers in October 2003. Their particulars and conditions of authorisations are listed on the Register of Automated Trading Services on the SFC website.</p> |
| <p>Greater Accountability of the SFC</p> | <p>The Securities and Futures Appeals Tribunal (SFAT) has been established. A wide range of the SFC decisions are appealable to the Tribunal. During the year, the SFAT concluded three cases. Two cases involved substantive applications for review of SFC's decisions, and the SFAT dismissed both. The other one involved an application for a time extension to lodge an appeal outside the statutory time limit, and similarly the SFAT dismissed it.</p> |

* Securities and Futures Commission Ordinance (Cap. 24)
Commodities Trading Ordinance (Cap. 250)
Securities Ordinance (Cap. 333)
Protection of Investors Ordinance (Cap. 335)
Stock Exchanges Unification Ordinance (Cap. 361)

Securities (Insider Dealing) Ordinance (Cap. 395)
Securities (Disclosure of Interests) Ordinance (Cap. 396)
Securities and Futures (Clearing Houses) Ordinance (Cap. 420)
Leveraged Foreign Exchange Trading Ordinance (Cap. 451)
Exchanges and Clearing Houses (Merger) Ordinance (Cap. 555)