

Corporate governance

The SFC has adopted a comprehensive and cohesive framework to promote transparency, accountability, fairness, objectivity and integrity in our work. It includes:

- a clearly defined governing structure
- a high standard of conduct
- sound operational and financial control procedures
- vigorous external checks and balances

We make reference to best governance practices for public bodies, such as those set out in 'Corporate Governance for Public Bodies – A Basic Framework' published by the Hong Kong Institute of Certified Public Accountants (HKICPA).

Our Board (The Commission)

All the members of the Board are appointed by the Chief Executive of the Hong Kong Special Administrative Region (HKSAR) (or the Financial Secretary under delegated authority) for a fixed term. The SFO requires that the majority of the members of the Board must be independent Non-Executive Directors (NEDs).

The Board leads the organisation in fulfilling our objectives and performing the functions as set out in the SFO. The Board provides strategic guidance to senior management and provides independent oversight of executive functions.

A number of regulatory powers and functions have been delegated by the Board to Executive Directors (EDs), senior staff or committees.

The NEDs bring to the Board a good mix of experience and expertise. They help with effective oversight of the executive functions. At the year-end, the Board comprised 14 members: the Chairman, seven NEDs and six EDs.

The non-executive Chairman leads the Board in setting the overall direction, policy and strategy. The Board under the leadership of the Chairman monitors the performance of the executive arm. The Chief Executive Officer (CEO) has responsibility for the day-to-day running of the SFC. He implements goals set by the Board and ensures the effective functioning of the SFC.

Mrs Alexa Lam was re-appointed with a new title and responsibilities as ED (Policy, China and Investment Products) and Deputy CEO effective from 1 March 2008 for a three-year term. Her role has a particular focus on Mainland China. This reflects our priority attached to strengthening ties with the Mainland and our counterparts there.

The Hon Chan Kam-lam was newly appointed as NED for two years from November 2007. Dr York Liao and Mr Christopher Cheng were re-appointed for two years from May 2007 and November 2007 respectively.

The Board meets regularly to discuss and set policy. Members have separate and independent access to senior management and divisional staff for any additional information they require about any policy proposal.

Internal committees

The Audit Committee comprises only NEDs. Mrs Angelina Lee is the Chairman. The committee met twice in the year where it considered the following:

- Annual audit and half-year financial review.
- Re-appointment of external auditor.
- An internal control review report by PricewaterhouseCoopers, covering areas such as banking and investment procedures, travel and entertainment expenses and payroll procedures. All controls were found to be adequate.
- Four complaints against staff, none of which was substantiated.

The Remuneration Committee comprises only NEDs. Dr York Liao is the Chairman. Its work includes:

- Reviewing overall remuneration policy to keep SFC pay levels effective in attracting, retaining and motivating staff.
- Keeping track of market pay trends and recommending any adjustments.
- Providing views on ED appointments and ED remuneration packages.

The Budget Committee chaired by NED Mr Christopher Cheng comprises both NEDs and EDs. Its work includes:

- Setting the parameters and basis used to prepare the annual budget.
- Reviewing performance against the approved annual budget half-yearly and recommending to the Board any revisions or action required.
- Reviewing the annual budget and making recommendations to the Board regarding its approval.

The Executive Committee comprises all EDs and the Chief Counsel. Mr Martin Wheatley, CEO, is the Chairman. Effective from 1 March 2008, the two Senior Directors who head the Licensing Department and Intermediaries Supervision Department also sit on the Executive Committee. Its work includes:

- Administrative, financial and management functions as delegated by the Board.
- Considering policy issues for recommendation to the Board.
- Oversight of functions delegated to EDs.



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Meetings attended / held					
	Commission	Audit Committee	Remuneration Committee	Budget Committee	Executive Committee
Chairman					
Eddy C Fong	13/16		2/2		
Executive Directors					
Martin Wheatley	15/16			1/1	19/19
Alexa Lam	15/16			1/1	17/19
Brian Ho	15/16				19/19
Paul Kennedy	15/16			1/1	19/19
Keith Lui	15/16				18/19
Mark Steward	16/16				18/19
Non-Executive Directors					
Chan Kam-lam ¹	5/6		2/2		
Christopher W C Cheng	14/16		2/2	1/1	
Kenneth H W Kwok	14/16	2/2	2/2		
Angelina P L Lee	13/16	2/2	2/2	1/1	
York Liao	12/16		2/2		
Liu Pak Wai	12/16	2/2	1/2	1/1	
Jasper Y S Tsang ²	6/9		N/A		
Shengman Zhang	11/16	1/2	2/2		
Chief Counsel & Senior Directors					
Stephen Po ³					1/2
Stephen Tisdall ⁴					2/2
Andrew Young					16/19

¹ Membership from 15.11.2007

² Membership until 14.11.2007

³ Membership from 1.3.2008

⁴ Membership from 1.3.2008

Our standards of conduct

We require high standards of integrity and conduct from our staff to promote and maintain public confidence. These are set out in our Code of Conduct along with the relevant legal duties concerning confidentiality, conflict of interests and personal investments. All staff must formally acknowledge the Code and failure to comply may result in disciplinary action or penalties specified by law.

Open communication within the SFC is encouraged and grievances are dealt with in an efficient and transparent manner. We have set up standard procedures for handling employee, public interest and discrimination complaints.

The procedures for public interest grievances are published on our website for easy access. Confidential reports can be made by employees under contract with the SFC, anyone on secondment, engaged as an independent consultant or contracted to supply services to the SFC.

Dissatisfaction with the way SFC staff carry out their duties is taken seriously and complaints from the public are dealt with promptly. We have published the 'Procedures for Handling Complaints against SFC Staff' on our website for guidance.

Accountability, transparency and internal control

We aim to make decisions and take action in a firm, fair, transparent and accountable manner. The SFC has detailed policies and procedures for making regulatory decisions as well as the use and management of financial resources.

Matters such as the appointment of consultants, collection of fees, investment of surplus funds, and purchasing or disposal of fixed assets are all clearly set out in the financial control procedures.

Each year, our forecast results and proposed budget are submitted to the Financial Secretary for approval and laid before the Legislative Council after consideration by the Board. The Director of Audit may also examine any books, accounts, vouchers, records or documents that we keep.

Our voluntary 'Quarterly Reports' discuss operations and activities at the SFC. We also maintain dialogue with stakeholders and the public through our Annual Report, press conferences and other publications. Our user-friendly website gives updated details about us, including contacts for enquiries and complaints. We consult the public on rule changes, non-statutory codes and guidelines, and amendments to the codes and guidelines.

We have appointed external accountants, separate from our external auditors, to conduct annual internal control reviews for us. The focus of this review is approved annually by the Audit Committee and forms part of the SFC's overall annual internal control review programme.

Independent checks and balances

The SFC is subject to external checks and balances to ensure fairness and due process, and to make sure that there is proper use of its regulatory powers.

The Process Review Panel (PRP) for the SFC is an independent, non-statutory panel, established by the HKSAR Chief Executive in November 2000, to review and advise the adequacy of the SFC's internal procedures governing the operational decisions and actions. The PRP has the power to review files of any completed or discontinued cases to verify that we have followed the procedures that govern our operational decisions and actions.

The PRP has 10 members, including eight from the financial services sector, academia and the legal and accountancy professions. There are two ex officio members, namely the representative of the Secretary for Justice and the Chairman of the SFC.

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The SFC is the first securities regulator in the world to introduce such an external review system.

In September 2007, the PRP published its report of the previous year's work based on the review of 40 cases. It concluded that the SFC had in general adhered to established internal procedures in its decisions and actions. In 2007, it reviewed 60 completed cases, ranging from the SFC's handling of complaints to its licensing and inspection of intermediaries and enforcement actions. The report on this review will be published later this year.

A wide range of the SFC's regulatory decisions are subject to a full merits review by the Securities and Futures Appeals Tribunal (SFAT), which is chaired by a High Court judge and comprises two other members appointed by the Secretary for Financial Services and the Treasury.

The SFAT can call new evidence, stay proceedings in the review, confirm, vary or set aside SFC decisions. There were 14 appeals lodged with the SFAT during the year. One was determined and 13 are in progress. Eight other cases carried forward from 2005-06 and 2006-07 were also determined. The applications in four of these cases were dismissed while the penalties in the remaining five cases were varied.

The Independent Commission Against Corruption (ICAC) has conducted reviews on the procedures and practices of the SFC since 1990. The ICAC conducted a review on the work of the Intermediaries Supervision Department in 2007 with no adverse findings.

Members of the public can take complaints against the SFC to the Ombudsman. During the year there was one new complaint and four cases brought forward from 2006-07. All five cases were not substantiated.

The SFC was the subject of three applications for judicial review during the year. Two were rejected by the Court, as was one part of the third case. The remaining part of the third case was dismissed by consent by the parties. Applicants in two of the cases are currently appealing to the Court of Appeal.

Although the SFC is an independent regulatory body, it reports regularly and furnishes information on important regulatory or market issues to the Financial Secretary, the Secretary for Financial Services and the Treasury, and the Financial Services and the Treasury Bureau. We are also required under the SFO to consult the Financial Secretary before exercising certain powers.

Performance pledges

The SFC pledges to be responsive to the public, market participants and intermediaries under our supervision in discharging our regulatory duties. The following table shows how we met our pledges during the year.

		% of cases meeting the pledge in 2007-08
Investor enquiries		
Preliminary response to telephone enquiries	4 business days	100%
Preliminary response to written enquiries	2 weeks	99.4% ¹
General enquiries		
Preliminary response to enquiries via enquiry@sfc.hk	4 business days	99.6% ¹
Public complaints		
Preliminary response to verbal & written complaints	2 weeks	99.8% ²
Processing of licensing applications³		
Representatives (provisional licence)	7 business days	88%
Representatives (normal licence)	8 weeks	83%
Representatives (responsible officers)	10 weeks	94%
Corporations	15 weeks	99%
Transfer of accreditation ⁴	7 business days	65%
Modification / waiver and subordinated loan applications		
Acknowledgement of receipt upon receiving any application	2 business days	100%
Investment products authorisation		
Take-up of applications upon receipt	2 business days	100%
Preliminary response to applicants after take-up for unit trusts, mutual funds, investment-linked assurance schemes and Mandatory Provident Fund pooled investment funds	7 business days	100%
Preliminary response to applications after take-up for other schemes	14 business days	100%

¹ Some cases failed to meet the pledge due to the exceptionally heavy workload when the enquiries were received.

² Three cases failed to meet the pledge due to their complexity. More time was needed to collect information to facilitate assessment.

³ Performance pledges only applied to cases where the applicants had supplied all the required documentation in their applications and satisfied all regulatory requirements.

⁴ This percentage was reduced (from 87% in 2006-07) because of high staff turnover, additional workload (36% increase in the number of licence applications and 19% increase in the number of licensees compared to the figures for the previous year) and the need to divert resources to process other applications.