

# corporate governance

Sound corporate governance is vital for fair, transparent and efficient operations, responsibility and accountability. It provides the foundation for effective performance and sustainable growth. We believe that our corporate governance standards set a good example for those we regulate and enhance the quality of the markets we oversee.

The cornerstones of our corporate governance standards are openness, accountability, fairness and objectivity. In this regard, we have reference to the principles and best practices recommended by the Hong Kong Institute of Certified Public Accountants.

## Governance framework

### Board of directors

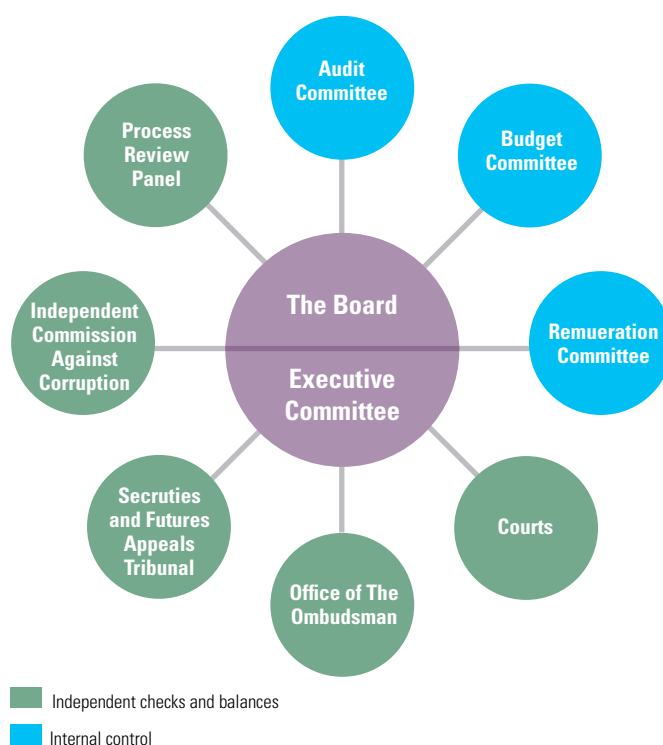
The SFC's management structure is designed to provide us with an effective framework and appropriate checks and balances in pursuing our regulatory objectives and performing our functions. The Board comprises individuals of high professional and social standing. All Board members are appointed for a fixed term by the Chief Executive of the Hong Kong Special Administrative Region or by the Financial Secretary (FS) under delegated authority. To ensure effective oversight and accountability, a majority of Board members are independent non-executive directors (NEDs). As a further measure to strengthen structural checks and balances, the posts of chairman and chief executive officer (CEO) have been segregated since 2006, and each has a distinct, albeit complementary, role.

The Board is charged with setting the SFC's overall direction and policies, providing strategic guidance to senior management, and monitoring the Executive Committee's performance of its functions. The Board meets at least once a month. Last year, 16 Board meetings were held.

At year-end, the Board had 14 members: the chairman, seven NEDs and six executive directors (EDs). Further details are set out on pages 18-21.

During the year, Dr Eddy Fong was re-appointed for a two-year term from October 2009 and continued to lead the Board as its non-executive chairman. The Hon Chan Kam-lam was re-appointed as a NED for two years from November 2009. Mr Wong Kai-man and Mr Lawrence Lee Kam-hung were appointed as NEDs for their first two-year terms from May and November 2009 respectively. Mr Brian Ho, ED of the Corporate Finance Division and Mr Keith Lui, ED of the Supervision of Markets Division were both re-appointed

### Framework of control



for further three-year terms from August 2009. Mr Mark Steward was re-appointed as ED of the Enforcement Division for three years from September 2009.

### The Executive Committee (ExCo)

The ExCo is made up of six EDs, the SFC's chief counsel and two senior directors. Headed by CEO Mr Martin Wheatley, the ExCo:

- Performs administrative, financial and management duties delegated to it by the Board;
- Refers policy issues to the Board for further consideration, and makes recommendations in respect of these; and
- Supervises specific functions of the SFC, which have been delegated to individual EDs.



## Checks and controls

A system of internal controls has been put in place to ensure that we conduct our operations and regulatory work fairly and properly. We are also subject to a number of external controls or review processes. The tables below provide further details of functional committees and external checks and balances, and major matters that fell within the purview of such bodies or the scope of such processes during the year.

### Internal committees

	Membership	Work done
Audit Committee	<ul style="list-style-type: none"> <li>• Chaired by Mrs Angelina Lee</li> <li>• Comprising only NEDs</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewed the SFC's annual financial statements</li> <li>• Reviewed procedures for oversight of the SFC's accounting and internal control systems</li> <li>• Made recommendations with respect to the SFC's appointment of external auditors and determined the scope of the auditors' work</li> <li>• Analysed the external auditors' findings and oversaw the SFC's implementation of certain modifications and improvements agreed following such findings</li> <li>• Considered other matters as required, including complaints against staff</li> </ul>
Remuneration Committee	<ul style="list-style-type: none"> <li>• Chaired by Dr York Liao (until 25 May 2009) and Prof Liu Pak-wai (since 26 May 2009)</li> <li>• Comprising only NEDs</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewed the SFC's staff remuneration policy</li> <li>• Advised on market pay trends and made recommendations with respect to periodic adjustments</li> </ul>
Budget Committee	<ul style="list-style-type: none"> <li>• Chaired by NEDs Mr Christopher Cheng (until 14 November 2009) and Mr Wong Kai-man (since 15 November 2009) respectively</li> <li>• Comprising both NEDs and EDs</li> </ul>	<ul style="list-style-type: none"> <li>• Approved the basis and proposed parameters for preparation of the SFC's annual budget</li> <li>• Reviewed the SFC's annual budget prepared for submission to the Board</li> <li>• Conducted half-yearly budget reviews</li> </ul>

Meeting attendance records for individual members of the various functional committees are provided on page 15.

### Independent checks and balances

	Membership	Tasks handled
Process Review Panel (PRP)	<ul style="list-style-type: none"> <li>• Comprising 11 Members</li> <li>• Nine members from the academic, financial, legal and accounting sectors</li> <li>• Two ex-officio members (the SFC Chairman and a representative of the Secretary for Justice)</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewed the SFC's internal operational procedures and determined whether such procedures had been consistently followed with respect to licensing applications, inspections, authorization of products and/or related documentation, handling of complaints, investigations and disciplinary actions and processing of listing applications under the Dual Filing regime</li> <li>• Published its report in September 2009</li> </ul>
Securities and Futures Appeals Tribunal (SFAT)	<ul style="list-style-type: none"> <li>• Comprising a chairman who is a High Court judge and a panel of 22 members</li> <li>• Two members from the panel for hearing a case</li> </ul>	<ul style="list-style-type: none"> <li>• 14 appeals were lodged with the SFAT for review of SFC regulatory decisions</li> <li>• Five cases were brought forward from 2007/08 and 2008/09</li> <li>• Of these 19 cases, eight were determined, two were withdrawn and nine remain in progress</li> <li>• Of the eight determined cases, the subject decision was upheld in five and the penalty was reduced in the other three cases</li> </ul>
Office of The Ombudsman	N/A	<ul style="list-style-type: none"> <li>• Conducted five preliminary inquiries after receiving public complaints</li> <li>• There were no cases brought forward from 2008/09</li> </ul>
Judicial review	N/A	<ul style="list-style-type: none"> <li>• The SFC was the subject of one application for judicial review, which remained in progress as of 31 March 2010</li> </ul>

### Enhancing transparency

We are committed to transparency in our work and regularly communicate with various stakeholder groups.

#### For the public

- We issue announcements and publications to update the public on regulatory actions and the latest market developments
- We maintain a corporate website ([www.sfc.hk](http://www.sfc.hk)) together with our investor education portal ([www.InvestEd.hk](http://www.InvestEd.hk))
- We consult the public on policy changes and proposed regulatory reforms
- We have dedicated contact points, including hotlines and email addresses, and procedures for handling enquiries and complaints

#### For the industry

- We launched the SFC Online Portal in September 2009 to enhance the efficiency of our communications with intermediaries
- We maintain an open dialogue with industry participants, including conducting soft consultation, where appropriate, on proposed rule changes
- We address conferences and seminars on topical issues

#### For the Government

In addition to matters in respect of which we are required to consult or seek the approval of the FS:

- We provide quarterly accounts of our operations to the Government
- We update the Government regularly on major market issues and on the progress of key policy initiatives

#### For the Legislative Council (LegCo)

- We regularly attend meetings of the LegCo Panel on Financial Affairs to discuss policy initiatives and address matters of interest to LegCo members

#### For other regulators

- We liaise with the Government, other regulators and HKEx to exchange information and discuss regulatory, supervisory and market issues of common interest.

#### For the media

- We hold briefings and press conferences, and conduct interviews to inform the media about our work

### Applying standards of conduct

Our employees have a vital role to play in ensuring that we adhere to our standards of corporate governance. Our employees are subject to our internal code of conduct, which sets out requirements and expected standards of behaviour and addresses matters such as confidentiality, conflicts of interest, personal investments and corrupt practices such as bribery. We also have control procedures in place covering matters such as the appointment of consultants and the selection of vendors.

We have a system of internal financial controls designed to ensure proper management of the SFC's financial resources in accordance with our established policies and procedures. In addition to the work performed by our external auditors, we appoint external accountants to conduct annual internal control reviews. The Director of Audit also has the power to examine our books, accounts, vouchers, and records.

We encourage open dialogue within the SFC and with the public. Should a person wish to report dissatisfaction with our staff, we have established procedures for handling complaints, and these are posted on our website. We have also established grievance procedures to assist persons who are engaged by or to work in/with the SFC to raise grievances or report improper practices or misconduct. We take these matters very seriously.

Pursuant to the Personal Data (Privacy) Ordinance, we provide a Personal Information Collection Statement to explain our policy in handling personal data where required, for example where we invite responses to consultation proposals. Personal data collected in the course of our work is also subject to our internal policy and confidentiality requirements. Our Data Privacy Officer, who is the Commission Secretary, handles all personal data requests from the public.

### Managing risks

We have policies and procedures in place to deal with readily identifiable risks, including various emergencies and technological glitches.

Our market contingency plan comprises procedures for dealing with emergencies that may affect the operations of the local securities and futures market.



Our internal contingency plans dealing with fires, natural disasters and other emergency situations are reviewed regularly and updated when deemed necessary to include specific measures for business continuation or recovery. In 2009, for instance, we formulated an additional contingency plan, in light of the outbreak of human swine flu, for use in the event that the disease infected any of our staff.

We attach great importance to information security. Robust controls are installed to monitor our information technology systems for viral attacks and possible breakdowns. These controls cover regular data backup, data and server recovery plans, virus detection and prevention tools, as well as secure protection measures for system usage and data accessibility.

## Recording attendance

Details of attendance at meetings of the Board and functional committees during the year are set out in the following table.

### Meetings attended/held

	Commission	Audit Committee	Remuneration Committee	Budget Committee	Executive Committee
<b>Chairman</b>					
Eddy C Fong	16/16		2/2		
<b>Executive Directors</b>					
Martin Wheatley	15/16			1/1	21/23
Alexa Lam	13/16			1/1	21/23
Brian Ho	16/16				20/23
Paul Kennedy	13/16			1/1	19/23
Keith Lui	16/16				20/23
Mark Steward	15/16				20/23
<b>Non-Executive Directors</b>					
Chan Kam-lam	13/16		1/2		
Christopher W C Cheng <sup>1</sup>	6/9				
Kenneth H W Kwok	13/16	2/2	2/2		
Angelina P L Lee	15/16	2/2	2/2	1/1	
Lawrence Lee <sup>2</sup>	6/7		2/2		
York Liao <sup>3</sup>	2/3				
Liu Pak Wai <sup>4</sup>	14/16	1/2	2/2	0/1	
Shengman Zhang	13/16	1/2	1/2		
Wong Kai-man <sup>5</sup>	9/13		2/2	1/1	
<b>Chief Counsel &amp; Senior Directors</b>					
Stephen Po					19/23
Stephen Tisdall					21/23
Andrew Young					23/23

<sup>1</sup> Appointed as NED, Chairman of Budget Committee and member of Remuneration Committee up to 14.11.2009

<sup>2</sup> Appointed as NED from 15.11.2009

<sup>3</sup> Appointed as NED, Chairman of Remuneration Committee up to 25.5.2009

<sup>4</sup> Appointed as Chairman of Remuneration Committee from 26.5.2009

<sup>5</sup> Appointed as NED from 26.5.2009 and Chairman of Budget Committee from 15.11.2009

## Meeting performance pledges

In performing our regulatory roles, we pledge to be responsive to the public, market participants and intermediaries under our supervision.

		% of cases meeting the pledge		
		2009-10	2008-09	2007-08
<b>Applications for subordinated loan or modification/ waiver of requirements under the SFO</b>				
Take-up of applications upon receipt	2 business days	96.9% <sup>1</sup>	99.3%	100%
<b>Authorisation of investment products</b>				
Commence review of applications upon receipt	2 business days	100%	100%	100%
Preliminary reply to applicants after take-up of application review for investment-linked assurance schemes, Mandatory Provident Fund pooled investment funds, mutual funds, and unit trusts.	7 business days	100%	100%	100%
Preliminary reply to applicants after take-up of application review for all other schemes	14 business days	100%	100%	100%
<b>Enquiries</b>				
General enquiries:				
Preliminary reply to public enquiries (excluding those from investors)	4 business days	99.8% <sup>2</sup>	99.6%	99.6%
Investor enquiries:				
Preliminary reply to telephone enquiries	4 business days	100%	100%	100%
Preliminary reply to written enquiries	2 weeks	99.5% <sup>3</sup>	99.6%	99.4%
<b>Processing of licensing applications<sup>4</sup></b>				
Corporations	15 weeks	99% <sup>5</sup>	99%	99%
Representatives (provisional licences)	7 business days	88% <sup>5</sup>	89%	88%
Representatives (normal licences)	8 weeks	95% <sup>5</sup>	86%	83%
Representatives (responsible officers)	10 weeks	97% <sup>5</sup>	95%	94%
Transfer of accreditation	7 business days	81% <sup>5</sup>	73%	65%
<b>Public complaints</b>				
Preliminary reply to verbal & written complaints	2 weeks	99.3% <sup>6</sup>	99.4%	99.8%

<sup>1</sup> Four cases failed to meet the pledge by one day due to operational issues.

<sup>2</sup> Due to system glitches, five general enquiries failed to meet the pledge.

<sup>3</sup> Three investor enquiries failed to meet the pledge due to complexity of the enquiries and/or large workload.

<sup>4</sup> Compliance with our performance pledges is measured in relation to applications in respect of which all of the required documentation is supplied by the applicants in a comprehensive and an efficient manner and in which delays, for which we have no responsibility, do not occur.

<sup>5</sup> Some cases failed to meet the pledges largely due to resource constraints and/or unexpected complications.

<sup>6</sup> Due to the exceptionally heavy workload when the complaints were received, 18 cases failed to meet the pledge.