

## Report of the Futures Compensation Fund Committee

The members of the Futures Compensation Fund Committee (the Committee) present their annual report and the audited financial statements for the year ended 31 March 1999.

### 1. Establishment of the Commodity Exchange Compensation Fund (the Fund)

The Fund was established for the purposes set out in Part VIII of the Commodities Trading Ordinance (Chapter 250).

### 2. Financial Results

The financial results are set out in the financial statements presented on pages 88 to 92.

### 3. Members of the Committee

The members of the Committee during the year and up to the date of this report were :

Mr Mark Dickens	(appointed on 1 April 1999)
Mr David White, JP	(resigned on 31 March 1999)
Mr Roderick Chalmers	
Mr Robert Gilmore	
Mr Mark K C Ho	
Mr Andrew Procter	(appointed on 25 November 1998)
Mrs Laura M Cha, JP	(resigned on 24 November 1998)

### 4. Interests in Contracts

No contract of significance to which the Fund was a party and in which a Committee Member had a material interest, whether directly or indirectly, subsisted at the balance sheet date or at any time during the year.

### 5. Auditors

On 19 November 1998, KPMG Peat Marwick changed the name under which they practise to KPMG and, accordingly, have signed their report in their new name.

KPMG retire and, being eligible, offer themselves for reappointment.

On behalf of the Committee

**Mark Dickens**

Chairman

7 May 1999

## **Auditors' Report To the Securities and Futures Commission (SFC)**

We have audited the financial statements of the Commodity Exchange Compensation Fund (the Fund) established under S.77 of the Commodities Trading Ordinance set out on pages 88 to 92 which have been prepared in accordance with accounting principles generally accepted in Hong Kong.

### **Respective Responsibilities of the SFC and Auditors**

The Commodities Trading Ordinance requires the SFC to keep proper accounts of the Fund and to prepare an income and expenditure account and a balance sheet (the financial statements) of the Fund in respect of each financial year. The directors of the SFC do so on the basis that these financial statements should give a true and fair view. In preparing financial statements which give a true and fair view it is fundamental that appropriate accounting policies are selected and applied consistently, that judgments and accounting estimates are made which are prudent and reasonable and that the reasons for any significant departure from applicable accounting standards are stated.

It is our responsibility to form an independent opinion, based on our audit, on those financial statements and to report our opinion to you.

### **Basis of Opinion**

We conducted our audit in accordance with Statements of Auditing Standards issued by the Hong Kong Society of Accountants. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the SFC in the preparation of the financial statements and of whether the accounting policies are appropriate to the Fund's circumstances, have been consistently applied and are adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the financial statements are free from material misstatement. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements. We believe that our audit provides a reasonable basis for our opinion.

### **Opinion**

In our opinion the financial statements give a true and fair view, in all material respects, of the state of affairs of the Fund at 31 March 1999 and of its surplus for the year then ended, and have been properly prepared in accordance with accounting principles generally accepted in Hong Kong.

### **KPMG**

Certified Public Accountants  
Hong Kong

7 May 1999

## Income and Expenditure Account

For the year ended 31 March 1999 (Expressed in HK\$)

	Note	1999	1998
<b>Income</b>			
Interest and investment income	3	\$ 5,522,711	\$ 4,257,904
Profit on disposal of dated securities		32,998	–
		<u>\$ 5,555,709</u>	<u>\$ 4,257,904</u>
<b>Expenditure</b>			
Auditors' remuneration		\$ 37,000	\$ 36,000
Premium amortised	3	132,630	37,802
Bank charges		51,491	46,098
Sundry expenses		500	150
Legal and professional fees		14,000	15,000
		<u>\$ 235,621</u>	<u>\$ 135,050</u>
<b>Surplus of Income Over Expenditure Before Appropriations</b>		<u>\$ 5,320,088</u>	<u>\$ 4,122,854</u>
<b>Balance Brought Forward</b>		–	–
<b>Appropriations</b>			
Transfer to Compensation Fund Account pursuant to S.83(2)(a) of the Commodities Trading Ordinance (Chapter 250)	6	<u>5,320,088</u>	<u>4,122,854</u>
<b>Balance Carried Forward</b>		<u>\$ –</u>	<u>\$ –</u>

The notes on pages 90 to 92 form an integral part of the financial statements

Commodity Exchange Compensation Fund

**Balance Sheet**

At 31 March 1999 (Expressed in HK\$)

	Note	1999	1998
<b>Investments</b>	3&4	\$ 44,204,727	\$ 51,073,138
<b>Current Assets</b>			
Investments	3&4	\$ 22,013,088	\$ 8,005,909
Interest receivable		859,802	457,002
Levy receivable		707,040	655,925
Bank fixed and call deposits		11,326,824	7,877,183
Cash at bank		26,239	42,513
		<u>\$ 34,932,993</u>	<u>\$ 17,038,532</u>
<b>Liabilities</b>			
Accounts payable and accrued charges		\$ 244,379	\$ 240,208
		<u>\$ 244,379</u>	<u>\$ 240,208</u>
<b>Net Current Assets</b>		<u>\$ 34,688,614</u>	<u>\$ 16,798,324</u>
<b>Net Assets</b>		<u>\$ 78,893,341</u>	<u>\$ 67,871,462</u>
Representing :			
<i>Compensation Fund</i>			
Contributions from			
the Hong Kong Futures Exchange Limited (HKFE)	5	\$ 21,100,000	\$ 21,000,000
Contract levy	3	46,682,950	38,253,242
Transfer from income and expenditure account	6	22,814,761	17,494,673
		<u>\$ 90,597,711</u>	<u>\$ 76,747,915</u>
Deduct: Compensation paid	7	(24,457,172)	(20,463,745)
Add: Recovery under subrogation	3&8	12,752,802	11,587,292
		<u>\$ 78,893,341</u>	<u>\$ 67,871,462</u>

Approved by the Committee on behalf of the SFC on 7 May 1999 and signed on its behalf by

**Mark Dickens**  
Chairman

**Robert Gilmore**  
Committee Member

**Roderick Chalmers**  
Committee Member

The notes on pages 90 to 92 form an integral part of the financial statements.

## Notes to the Financial Statements

For the year ended 31 March 1999 (Expressed in HK\$)

### 1. Money Constituting the Fund

The Fund is derived principally from monies paid to the SFC by the HKFE by way of deposits in respect of its shareholders, by way of a contract levy chargeable on contracts traded on the HKFE, from the return or profit on the investment of surplus funds and from monies recovered by or on behalf of the SFC by the exercise of any right of action conferred by Part VIII of the Commodities Trading Ordinance (Chapter 250) (the CTO).

### 2. Purpose and Limitation

The purpose of the Fund is to meet claims, as determined and allowed by the HKFE, for pecuniary losses suffered by persons as a result of defaults on the part of shareholders of the HKFE.

The total amount of compensation that may be paid to claimants consequent upon the default of any one shareholder is normally limited to \$2,000,000 pursuant to S.87(3) of the CTO. If the aggregate of allowed claims in respect of a shareholder exceeds the \$2,000,000 limit, that amount shall be apportioned among claimants as determined to be equitable by the HKFE.

Should defaults at any given time on the part of shareholders of the HKFE give rise to allowed and/or apportioned claims exceeding the net assets of the Fund, compensation payments to claimants would be apportioned in accordance with S.97(1) of the CTO, the unpaid amount of such allowed and/or apportioned claims being charged against further receipts by the Fund and paid out as and when money is available.

### 3. Accounting Policies

These accounts have been prepared in accordance with Hong Kong Statements of Standard Accounting Practice and accounting principles generally accepted in Hong Kong. A summary of the significant accounting policies is set out below :

- a Interest income and contract levy are recognised in the financial statements on an accruals basis. The contract levy is taken directly to the Fund.
- b Premium or discount on the purchase of dated securities is amortised or accreted respectively to the income and expenditure account on a straight line basis over the holding periods to redemption.
- c Provision for compensation is made for known liabilities arising from claims for pecuniary losses suffered by persons as a result of defaults on the part of the shareholders of the HKFE which are determined up to the date on which the accounts are approved by the Committee. Such provisions are transferred directly from the Fund.
- d Recovery of any payment out of the Fund in respect of any claim under subrogation pursuant to S.95 of the CTO is recognised in the financial statements on a cash basis and taken directly to the Fund.
- e Investments, representing dated securities which are intended to be held to maturity, are stated at cost adjusted for the amortisation of premiums and accretion of discounts on purchase over the holding periods to redemption, and less provisions where there has been a permanent diminution in value.

### 3. Accounting Policies (cont'd)

- f The Fund is exempt from taxation pursuant to S.87 of the Inland Revenue Ordinance (Chapter 112).
- g For the purposes of these financial statements, parties are considered to be related to the Fund if the Committee has the ability, directly or indirectly, to control the party or exercise significant influence over the party in making financial and operating decisions, or vice versa, or where the Fund and the party are subject to common control or common significant influence. Related parties may be individuals or other entities.

### 4. Investments

	1999	1998
Dated securities		
maturing after one year – listed in Hong Kong	\$ 4,941,852	\$ 4,004,844
– unlisted	<u>39,262,875</u>	<u>47,068,294</u>
	<u>\$ 44,204,727</u>	<u>\$ 51,073,138</u>
maturing within one year – listed in Hong Kong	\$ 1,004,640	\$ –
– listed outside Hong Kong	–	2,005,909
– unlisted	<u>21,008,448</u>	<u>6,000,000</u>
	<u>\$ 22,013,088</u>	<u>\$ 8,005,909</u>
	<u>\$ 66,217,815</u>	<u>\$ 59,079,047</u>
Market value at 31 March – listed in Hong Kong	\$ 5,942,100	\$ 3,934,400
– listed outside Hong Kong	–	1,981,800
– unlisted	<u>60,628,400</u>	<u>51,919,200</u>
	<u>\$ 66,570,500</u>	<u>\$ 57,835,400</u>

### 5. Contributions from HKFE

	1999	1998
Balance brought forward	\$ 21,000,000	\$ 20,600,000
Add: Contributions received during the year	900,000	1,100,000
Deduct : Refunds to outgoing shareholders	<u>(800,000)</u>	<u>(700,000)</u>
Balance carried forward	<u>\$ 21,100,000</u>	<u>\$ 21,000,000</u>

## Notes to the Financial Statements

For the year ended 31 March 1999 (Expressed in HK\$)

### 6. Transfer from Income & Expenditure Account

	1999	1998
Balance brought forward	\$ 17,494,673	\$ 13,371,819
Transfer of surplus for the year	<u>5,320,088</u>	<u>4,122,854</u>
Balance carried forward	<u>\$ 22,814,761</u>	<u>\$ 17,494,673</u>

### 7. Compensation Paid

	1999	1998
Balance brought forward	\$ 20,463,745	\$ 20,463,745
Add: Compensation paid (re: Winton Commence Ltd.)	<u>3,993,427</u>	<u>–</u>
Balance carried forward	<u>\$ 24,457,172</u>	<u>\$ 20,463,745</u>

Pursuant to S.90(5) of the CTO, the Committee allowed compensation payments out of the Fund during the year in respect of one defaulted shareholder of the HKFE in excess of the compensation limit of \$2 million per shareholder as specified in S.87(3) of the CTO.

### 8. Recovery Under Subrogation

	1999	1998
Balance brought forward	\$ 11,587,292	\$ 11,499,524
Add: Amount recovered during the year	<u>1,165,510</u>	<u>87,768</u>
Balance carried forward	<u>\$ 12,752,802</u>	<u>\$ 11,587,292</u>

Under S.95 of the CTO, the SFC is entitled to receive in place of the claimant, all claims, remedies and distribution of surplus assets on liquidation of the dealer in relation to the loss sustained by the claimant, to the extent of the payment made by the SFC out of the Fund.