

Closer Co-operation between CSRC and SFC

SFC Chairman, Mr Eddy Fong, has made his first visit to the China Securities Regulatory Commission (CSRC) in Beijing.

During Mr Fong's two-day visit, which ended on 29 November, he met CSRC Chairman, Mr Shang Fulin, and other senior CSRC officials to discuss matters of mutual interest. A wide range of topics including the Mainland's state-owned shares reform and the experience and benefits of Mainland companies' listing in Hong Kong were discussed.

Mr Shang expressed CSRC's support to Hong Kong's status as an international financial centre, the listing of Mainland enterprises in Hong Kong and their making full use of both the domestic and overseas markets for development and promotion of reforms.

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Mr Fong (left) and Mr Shang met at the CSRC.

Message from SFC CEO

Dear Reader,

In the first month of Year 2007, I wish you a prosperous and happy new year.

On-going education of retail investors will continue to be one of our priorities, and we have planned to start the year by naming January as the Investor Education (IE) month. The IE month will bring a series of programmes to strengthen investors' awareness of the risks of investments. Programme details are highlighted in a separate story below.

The need to strengthen education is also underpinned by the findings of the first SFC investor survey on retail structured products. Many investors did not fully understand the products they invested in (page 6).

Before the end of last year, we were pleased to learn of the Court's sanction of the agreement between the former Administrator of Whole Win Securities and Mr Vincent Woo on the restructuring of the brokerage. To enable Whole Win to return assets to clients promptly, the SFC has varied the Restriction Notice imposed against the firm. The return of assets to clients will be closely monitored (page 3).

Martin Wheatley

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January 2007 - Investor Education Month

The SFC has kicked off its investor education initiatives in 2007 by designating January as the Investor Education Month.

One of the highlights is a series of six seminars jointly hosted by the SFC and The Open University of Hong Kong from 13 January to 3 February. The seminars focus on risk assessment of investing. Summaries will be published in the HK Economic Journal, and video excerpts will be aired on the Business News Channel of Now TV in February.

The SFC has also produced a new TV drama series, which for the first time is adapted from real-life cases. The series will be screened on the Finance Channel of Cable TV in late January.

Other on-going initiatives, such as Dr Wise's Column, newspaper and magazine articles, and seminars will continue throughout the year.

For details, see press release issued on 22 December 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR267>.

Awards to the SFC for excellence for Annual Report

The SFC has received awards from the Hong Kong Management Association (HKMA) and the Hong Kong Institute of Certified Public Accountants (HKICPA) for excellence for its Annual Report 2005-06.

The SFC's Annual Report for the year ended 31 March 2006 has been awarded the Gold Award in the Non-profit Making and Charitable Organisations category of the 2006 HKMA Best Annual Reports Awards, and named the category winner in Citation for Achievement in Corporate Governance Disclosure.



Dr David Li Kwok-po, Chairman of the HKMA (left), and Mr Howard Gorges, Chairman of the Panel of Adjudicators (right), presented the award to SFC Chief Executive Officer Mr Martin Wheatley.

The report received special mention by the adjudicators in the areas of information provision on corporate governance; purpose and description of activities and performance; future plans and understandability.

The report has also been given the Platinum Award in the Public Sector/Not-for-profit Organisations Category in the HKICPA's Best Corporate Governance Disclosure Awards 2006. "The report provides details on, amongst other things, the composition and operation of the board and the functions and objectives of key governance committees and panels, indicating a high degree of transparency and accountability," the judges' report commended.

The SFC has also won recognition for its effort in helping the disadvantaged. For the second year, the SFC website (www.sfc.hk) is a recipient of the Gold Award in the Web Care Award 2006, run by the Hong Kong Internet Professional Association to promote no-barrier websites for all users including people with disabilities.

To enable visually impaired users to browse for key information about the SFC, the SFC has made available a text-only version for certain parts of the website.



New appointments

The SFC welcomes the new appointment by the Financial Secretary of **Mr Shengman Zhang** and the re-appointment of **Mr Kenneth Kwok** and **Professor Liu Pak-wai** as Non-Executive Directors. The appointments are for two years, from 1 January 2007 to 31 December 2008.

Mr Zhang has rich experience in the banking and financial field in the Mainland and internationally. He is Vice-Chairman of Global Banking and Chief Operating Officer of Asia Pacific of Citigroup. Prior to his current position, Mr Zhang had held a number of senior positions at the World Bank and the Ministry of Finance of Mainland China.

Both Mr Kwok and Professor Liu have been Non-Executive Directors since 1 January 2005. The SFC's board is now composed of the Chairman, six Executive Directors, and seven Non-Executive Directors.

Closer co-operation between CSRC and SFC

(continued from page 1)

Mr Fong also gave an account of the current developments of the Hong Kong capital market and the corresponding regulatory efforts of the SFC.

Mr Shang and Mr Fong agreed that the existing co-operation between the CSRC and the SFC had yielded significant, positive results, and believed that the two regulators should continue to develop this excellent relationship.

While he was in Beijing, Mr Fong also visited Mr Zhou Xiaochuan, Governor of The People's Bank of China and Mr Cai Esheng, Vice President of the China Banking Regulatory Commission.

Mr Fong said both the Mainland and Hong Kong markets had their own development strengths, and it was therefore important that the regulators would continue to maintain an active dialogue and close co-operation.

For details, please see press release issued on 30 November 2006, available on the SFC website at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR252>.



Mr Fong also met Mr Zhou, Governor of The People's Bank of China (right).

Restructuring of Whole Win Securities

The SFC has varied the Restriction Notice imposed against Whole Win Securities Limited and taken other regulatory measures to enable Whole Win to promptly return assets to its clients. This followed the Court's sanction of a Restructuring Deed entered into between Mr Vincent Woo and the Administrator of Whole Win, which, amongst other things, resulted in the Administrator being discharged.

The Restriction Notice has been varied principally to require Whole Win to restrict its business solely to that required to implement the Restructuring Deed in a timely and proper manner, so as to best protect and further the interests of Whole Win's clients.

Mr Woo, who has assumed control of Whole Win following the discharge of the Administrator, has provided funds to facilitate the release of clients' securities which have been on-pledged to Whole Win's banks, to meet in full the claims of clients arising from the use of their securities to settle outstanding trades and in respect of cash balances that had not been held in segregated bank accounts, and to satisfy the claims of other creditors of Whole Win as they fall due.

The failure of Whole Win was uncovered in May 2006. The SFC immediately restricted its activities to safeguard client interests. An Administrator was then appointed to take over the affairs of Whole Win, and the SFC worked closely with the Administrator and Mr Woo in the following months to facilitate an agreement, which was entered into on 3 November, for the restructuring of Whole Win.

- Two other securities broker firms were identified with serious integrity issues in the second half of last year. On 10 November 2006, the Administrators of Tiffit Securities (Hong Kong) Limited applied to the High Court regarding the mechanism to be adopted for the allocation and distribution of the assets held by Tiffit to its clients. And on 8 January 2007, the Administrators of Wing Yip Company Limited obtained the Court's final Orders concerning the allocation and distribution of the assets to Wing Yip's clients.

For details on the recent developments of the Whole Win case, see press releases issued on 7 and 29 November 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcAllPressReleaseServlet?openAgent>.

FinNet links up with SWIFTNet

To further enhance FinNet users' efficient and cost effective access to local and global financial communities, a collaboration has been formed with SWIFT (The Society for Worldwide Interbank Financial Telecommunication).

With a target date in the first half of 2007, FinNet will connect to SWIFTNet, a global network of financial institutions. This will enable FinNet users to access SWIFT services, and vice-versa.

Potential applications include wealth management, investment fund automation and securities related processing. SWIFT-ready application service providers and service bureaus authorised by SWIFT are welcome to join FinNet and put their services on board. For details, please contact FinNet on 2283 6883.

Five-day week

The SFC has implemented the five-day week in full from 1 January.

The majority of the SFC's operations moved to a five-day week on 1 July 2006. A review on the arrangements which had remained open on Saturdays, i.e. manning the reception and the Investor Hotline, indicated that the demand for service had been minimal.

With the closure of the SFC reception, a mailbox has been placed at the SFC office (8/F, Chater House, Central) for dropping in of documents to the SFC on Saturdays. Callers to the Investor Hotline may leave messages. The SFC office hours are 9 am - 6 pm (Mon - Thu) and 9 am - 5:15 pm (Fri).

For details, see press release issued on 27 December 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR270>.



Investor resources

The following items of investor resources have been made available to the investing public or updated recently. They can be found on the InvestEd website at the URLs provided.

Investor Alert Updates (<http://eapp01.sfc.hk/apps/ie/eIRCAAlertList.nsf/eng/alert?openpage>):

Nine unlicensed companies have been added to the Alert List: "Alpina Investments" (3.01.2007); Hong Kong International Trading Corporation" (12.12.2006); "The Tidal Group" (22.11.2006); "Newman Bell Mergers & Acquisitions" (15.11.2006); "Merchant Lerner & Associates" (14.11.2006); "Hero Elegant Global Services Limited" (9.11.2006); "Gateway Corporate Services Limited" (9.11.2006); "Leonard Berney and IPM Investment Program Management" (7.11.2006); "Honesty International Holdings Limited" (6.11.2006). Information of three entities "Yamato & Associates" (27.12.2006); The Xenon Group" (9.11.2006); "Gordon Stanford Acquisitions" (6.11.2006) has been updated on the list.

Dr Wise's Column (<http://www.invested.hk/invested/html/EN/features/index.htm>):

"Retail Structured Notes - Buyer Beware" (28.11.2006) and "Mah-jong and Investment" (19.12.2006)

Other publications



The following publications have been published since the release of the last SFC Alert. They are available on the SFC website under "Speeches, Publications & Consultations" - "Publications" at: <http://www.sfc.hk/sfc/html/EN/speeches/public/public.html>.

1. SFC Stakeholder Survey (11.01.2007)
2. SFC Quarterly Bulletin - Autumn 2006 (3.01.2007)
3. Structured Product Investor Survey (28.11.2006)
4. SFC Enforcement Reporter - December 2006 (22.12.2006)
5. SFC Enforcement Reporter - November 2006 (17.11.2006)
6. SFC Quarterly Report - July to September 2006 (14.11.2006)

Quality of disclosure crucial

The SFC stresses that the quality of information provided to investors in new listings is of critical importance, and that sponsors have the responsibility to make sure that sufficient, relevant and accurate information is provided in prospectuses to enable investors to make informed decisions.

The reminder was issued last month in the latest update for the market on the operation of the Dual Filing arrangements.

For July to September 2006, the SFC received, via the Stock Exchange, 34 listing applications, comparing to 16 from April to June. We commented on 22 of the 34 cases, and the average response time was seven working days.

The SFC noted a case in which the company's customers were distributors which in turn sold the products to retail stores. Some of the distributors were previously the company's subsidiaries or associated companies, or were companies held by its senior

management. The sponsor's inconsistent explanations about such relationships suggested a lack of due diligence.

It was also noted that some sponsors conducted due diligence into key aspects of a company's operations only after the regulators had raised queries, and made no disclosure in the prospectus of material information obtained through due diligence until asked to do so.

- The new sponsor regulatory regime which ensures only those intermediaries that have met the eligibility requirements may act as sponsors or compliance advisers has become effective since 1 January 2007. For more information, please refer to a press release issued on 30 December 2006.

For details of the dual filing update, see press release issued on 28 December 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR271>.

Bulletin board - licensing matters

As the number of market practitioners is expected to continue to grow, it would be useful to point out some common shortcomings noted in previous applications, so that new comers can better prepare their submissions.

Basic information of corporate applicants

- lack of clarity of the business to be conducted
- incomplete shareholding structure and failure to identify all of the applicant's substantial shareholders - "substantial shareholder" defined under the SFO should be duly referred to in preparing the submission
- failure to clearly describe the applicant's organisational structure and intended operational flow

Internal controls and procedures

Inadequate or lack of policies and procedures - Proper and sufficient internal controls and procedures are crucial in demonstrating the applicant's fitness and properness to become a licensee. All manuals and procedures should be tailor-made for the business, and be established in written form before its operation.

Qualified personnel

Failure to demonstrate there are sufficient and qualified personnel, including management and front-line and back-office staff, to run the business.

Compliance history

Non-disclosure or insufficient details of investigations or disciplinary actions taken by a regulatory or professional body - An applicant should disclose all such matters whether or not they were securities activities-related, and whether such investigations or actions were conducted locally or overseas.

Application forms and fees

Forms not duly completed and signed, and incorrect application fees - These will lead to additional processing time, or even rejection or return of the applications.

Professional legal advice should be sought on how the law will apply to specific licence applications or circumstances. For general information on licensing matters, applicants may refer to our Licensing Information Booklet available at the SFC website.



Circulars

The following recently published circulars are available on the SFC website under "Legislation & Regulatory Handbook" - "Regulatory Handbook" - "Codes, Guidelines and Circulars" at: <http://eappo1.sfc.hk/apps/cc/RegulatoryHandbook.nsf/eng/GenerateHTMLTB?openAgent>.

1. Circular to Licensed Corporations and Associated Entities Anti-Money Laundering / Combating Terrorist Financing (1) United Nations Sanctions (Democratic Republic of the Congo) Regulation 2006 (2) US President's Executive Order 13224 (3) Non-cooperative Countries and Territories (4) Anti-Money Laundering Training Seminar Materials (2.01.2007)
2. Circular to Intermediaries Licensed or Registered for Type 6 Regulated Activity - The New Sponsor Regime (30.12.2006)
3. Circular to All Licensed Corporations - Five-day Week (27.12.2006)
4. Circular to intermediaries1 licensed or registered for Type 6 regulated activity - Implementation of the New Sponsor Regime (15.12.2006)
5. Circular to Licensed Corporations Providing Online Trading Services - Reminder of Adequate Information Security Measures to Combat Possible Denial-of-Service Attacks (7.12.2006)
6. Circular to all Issuers of Unlisted Retail Structured Products - Enhance Prospective Investors' Understanding of Structured Products (28.11.2006)
7. Circular to Licensed Corporations and Associated Entities (1) Anti-Money Laundering / Combating Terrorist Financing (2) Identification and Reporting of Suspicious Transactions (17.11.2006)

SFC highly regarded by stakeholders

The SFC is highly regarded by stakeholders, according to a survey commissioned by the SFC and conducted last year by an independent market research firm.

The survey found that stakeholders regarded the SFC highly and believed that its programmes had a positive impact on the securities and futures markets in Hong Kong. The SFC was viewed to have conducted its regulatory activities impartially and to have effectively enforced the Hong Kong market. Overall, stakeholders regarded the SFC as approachable, easy to deal with and the best securities regulator in Asia.

The survey also found that stakeholders generally wanted the SFC to:

- fill senior positions
- ensure the quality of listings, particularly those from the Mainland
- support Hong Kong's competitiveness in a global market: be more proactive in developing Hong Kong as a major financial centre and be less conservative in its approach to the introduction of new products
- exercise its powers on major enforcement cases and administration of dual filing

- address the high turnover of middle and junior-level staff and the need to have more experienced staff at these levels
- improve clarity of rules, speed of response and consistency of decisions
- reduce unnecessary documentation

The SFC values open and frank feedback to help make its programmes and activities more effective. The SFC is committed to working with stakeholders to achieve the right balance between regulating in the public interest and ensuring that regulation does not impose unnecessary burdens or stifle healthy competition and market development.

Based on the findings of the survey, the SFC will consider how we can improve in the areas identified.

Stakeholders surveyed include securities or futures brokers, financial advisers, asset/fund managers, insurance companies, investment banks, banks, listed companies, accounting firms, law firms, private investors/investor advocates, financial media, HKEx, Legislative Council aides and other government authorities.

For details, see press release issued on 11 January 2007 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=07PR3>.

Investors warned of online fraud

The SFC has warned investors of a new form of online fraud reported in the United States.

The scam typically begins with an investor logging on his securities trading account on a public computer installed with a snooping software by a hacker. All keystrokes, e.g. account user name and password, entered on the computer will be transmitted to the hacker who would then use the information to access the account and conduct transactions.

Investors are therefore strongly advised not to access their online securities trading account from a computer in a public place, such as cafes, airports, or hotels.

Some general precautions to help investors better guard against online frauds are:

- select a password or login ID that is difficult to guess, and change your password regularly
- do not disclose your password to anyone
- report suspicious transactions to your broker firm and suspend your account or change your password
- if you are unable to access your online securities trading account for any reason, contact your broker firm immediately

For details, see press release issued on 24 November 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR247>.

Action plan on product mis-selling

As financial products become increasingly complex, more and more investors rely on investment advisers (IAs) for guidance on choosing the right products. Risks arise when IAs are unable to provide professional and objective advice to clients.

To address the risk of product mis-selling, initiatives have been or will be implemented by the SFC:

- inspection on IA activities
- enforcement against breaches of rules and regulations
- more detailed guidance on existing regulatory requirements concerning duties and obligations of IAs to their clients will be provided
- efforts to help investors know their rights, responsibilities and risks when seeking advice from IAs will continue

In a recent speech, Mrs Alexa Lam, SFC's Executive Director of Intermediaries and Investment Products, has reminded IAs that they have the duty to act in the clients' best interests by knowing their clients and to ensure they understand all material aspects of a product before recommending to a client. IAs should make recommendations suitable for the client's circumstances, help the client make informed decisions and employ competent staff with appropriate training.

For details, see press release issued on 20 November 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR244>.



Investors lack understanding of structured products

According to an SFC survey, many investors who bought unlisted, retail structured products did not fully understand their nature.

The survey found that:

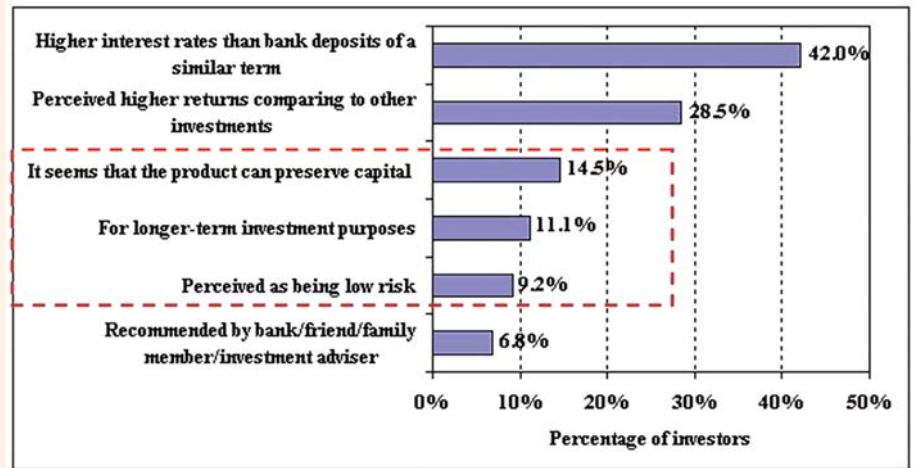
- investors bought structured products primarily for higher interest rates than bank deposits of a similar term and for perceived higher returns compared with other investments; many purchased these products for capital preservation, long-term investment purposes or perceived them as low risk investments (see chart)
- nearly half of the equity-linked product investors did not realise that with a bull equity-linked note, they would receive stocks instead of cash if the price of the underlying stock dropped below the strike price on the valuation date
- only around 11% of investors in equity-linked, credit-linked or index-linked products recalled having received and read offering documents, and fully understood them

The SFC has continued its risk education to retail investors. In the November issue of Dr Wise, investors are reminded that a retail structured note linked to a basket of stocks

is riskier than one linked to a single stock, and that before investing, they should read all offering documents instead of just the marketing materials which do not have full information. They should also be prepared for the worst-case scenario, i.e., receiving shares of values substantially lower than the amount they invested.

For details, see press release issued on 28 November 2006 at: <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=06PR249>. The full Dr Wise article "Retail Structured Notes - Buyer Beware" is available at: http://www.invested.hk/invested/html/EN/features/doctor/features_87_226_337.htm.

Major reasons for investment



Note: Multiple answers allowed

Reasons highlighted above are misconceptions and indicate investors' inadequate understanding of the products. Very few structured products offer capital protection on maturity.

In brief

- The SFC and SEHK have jointly announced a **general waiver** to listed companies actively engaged in property development as a principal business activity in relation to bidding at land or property auctions. Listed companies will not need to seek prior shareholders' approval to acquire land or property development projects in Hong Kong from Government or Government-controlled entities through public auctions or tenders. The waiver is intended to be a temporary relief pending review and possible amendment of the Listing Rules.
- The SFC has published its second **quarterly report** for the financial year ended 31 March 2007. During July to September 2006, the SFC issued restriction notices against two brokerage firms to protect investors. The SFC also embarked on a three-pronged action plan including increased investor education regarding brokers misappropriating client assets. On enforcement, the SFC prosecuted 13 entities and took disciplinary actions against 15 entities for various breaches.



Recruitment

The following SFC positions are open. For application and details of the openings, please visit the SFC website at: <http://www.sfc.hk/sfc/html/EN/aboutsfc/employment/employment.html>.

- Senior Manager - Intermediaries and Investment Products Division (Licensing Department)**
- Temporary Clerk**



Subscription information

The bi-monthly *SFC Alert* forms part of our range of regular publications; others include the monthly *SFC Enforcement Reporter*, the *Quarterly Report*, the *Quarterly Bulletin* and the *Annual Report*. All these publications are posted on the SFC website.

Free subscription to the electronic version of the *SFC Alert* (and other publications) can be made to sfcalert@sfc.hk.



Feedback

Tell us what you think of the *SFC Alert*. Questions and comments can be sent to sfcalert@sfc.hk.

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