

A Fruitful Year - 2003 in review

We last month held a press conference to review the SFC's work in 2003 and outlines the priorities in 2004. The Chairman and all other Executive Directors were present at the annual event. We told the reporters that the Securities and Futures Ordinance had successfully commenced operation last year.

The new regulatory framework has enabled the SFC to better protect investors with tougher penalties on intermediaries and market misconduct. The Dual Filing regime has been welcomed by the market, while the Single Licensing Regime has been operating smoothly.

During the year, we continued vigilant intermediaries supervision and helped brokerage firms to manage down the risk arising from securities margin financing. We consulted the market on the guidelines on

good disclosure of fees and charges of securities services and, together with the Exchange, consulted on the regulation of sponsors and financial advisers.

We introduced measures to facilitate development of the financial market infrastructure, fund management industry and the offering of securities. For example, we introduced the Guidelines for Electronic Public Offerings, the Code on Real Estate Investment Trusts and the Guidelines and class exemptions to facilitate securities offerings.

More disciplinary cases were concluded during the year, more persons were prosecuted and more company inspections were initiated.

In 2004, the SFC will continue to upkeep market standards, facilitate market

development, and enforce the law - with the aim of transforming the Hong Kong market into one of a higher quality.

For details, please see press release issued on 27 January 2004 and the attached PowerPoint slides, available on the SFC website at: www.hksfc.org.hk/eng/press_releases/html/index/index0.html.



Buoyant market turnover has enabled the SFC to report a surplus of \$65.2 million for the three quarters from April to December 2003. See page 5 for more details.

INSIDE

- Senior management interview: Peter Au-Yang P.2
- Act fast for fee discount
- A feasible blueprint on regulation of listing P.3
- Be a professional and act like one
- FAQs: scrip fee
- Proposals to benefit Hong Kong's 1,000,000 investors P.4
- SFC Smart Investor Awards
- Circulars
- Investor focus: IPO investing step-by-step P.5
- Quarterly results
- Investor resources
- Meet Dr Wise P.6
- Other publications

A message from the editor

Dear Reader,

First, on behalf of the SFC, I would like to take this opportunity to wish you a prosperous and healthy 2004 and Year of the Monkey.

You would not fail to notice that the *SFC Alert* has had a facelift. We have introduced several regular features: Senior Management Interview, FAQs (by investors or intermediaries), and sections which will help you easily find SFC circulars to intermediaries, investor resources or other

publications such as consultation papers and reports. You may also find SFC staff recruitment news.

The articles are shorter. Yet, we are expanding the newsletter to six pages from four so we can cover more events.

We hope you would find the new *SFC Alert* a more informative, useful and attractive newsletter. We would like to hear your comments. Email us at sfcalert@hksfc.org.hk or send us a letter. Thank you.



Senior management interview

Peter Au-Yang, Executive Director and Chief Operating Officer

Please introduce yourself.

I joined the SFC last May. I am responsible for finance and administration, human resources and training, information technology, investor education, and corporate communications. I also co-ordinate cross-divisional functions and communications, and lead the implementation of corporate strategies. As a Member of the Commission, I sit on the board.

You had been an investment banker for 18 years?

Yes. My geographical coverage was mainly Hong Kong, although I had spent three years in Singapore. I worked mainly on equity fund raising and M&As. It was not an easy decision to quit. But I saw challenging prospects for me as a securities regulator, especially now that there is a consensus in Hong Kong to improve the quality of the market.

Do you like what you are doing?

The SFC is a strong and accountable institution. The decision making process

is democratic and often involves input from different levels of staff, because they are experts and specialists. We have to not only fully consult the market before a policy can be implemented, but also clearly communicate internally.

You joined the SFC at a time when Hong Kong was under severe tests economically and socially. Are things turning around?



Market turnover has improved. After two years of deficits, we have recorded a surplus so far this year, as you can see in the article on the SFC third quarterly report. I think it is well understood that our income, a significant source of which is market levy, is closely tied to the market conditions. What is not so apparent is that even when the market is down and when turnover is low, the SFC is still required to perform its regulatory duties and therefore its expenditure level cannot go down in proportion to its revenue level.

How do you manage the finances?

In a good market, we have to build up the reserves for the rainy days. Our cost cutting measures have been very useful in keeping expenditures down in the past few years. But we shall continue to spend where it is needed. The resources required for maintaining the integrity of the market and protecting investors do not diminish in a down market.

Personal bio

- Joined SFC on 26 May 2003
- Previously Co-Head - Investment Banking, Asia Pacific of the Hongkong and Shanghai Banking Corporation Ltd.
- BSc in Business Studies (First Class Honours), University of Bradford, England; MSc in Accounting & Finance, London School of Economics and Political Science, England.
- Plays golf and enjoys driving at weekends.

In brief

On 19 December 2003, the **Takeovers and Mergers Panel**, in a decision regarding an on-market share repurchase programme of CLP Holdings Limited, confirmed the Takeovers Executive's ruling that Rule 32.1 of the Takeovers Code should not be interpreted so as to permit waiver applications in respect of mandatory offer obligations triggered by on-market share repurchases. (<http://eapp01.hksfc.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/03PR284?openDocument>)

On 5 February, the **International Organization of Securities Commissions (IOSCO)** announced the setting up of a special Chairmen's Task Force to organise and co-ordinate IOSCO's response to recent high profile incidents of securities fraud and market abuse. (<http://eapp01.hksfc.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/04PR21?openDocument>)

Act fast for fee discount

We are reminding intermediaries that they can enjoy a 5% discount on annual fees during the transitional period if they submit their applications to migrate to the new licensing regime by 31 March 2004.

To facilitate migration by intermediaries, the SFC also issued a circular to licensed corporations on 27 January to draw their attention to certain matters that may expedite the application process.

In addition, the SFC has posted on its website more samples of completed licensing application forms.

All completed sample forms are available under "Bills, Legislation & Codes" - "Securities and Futures Ordinance" - "Samples of Completed Licensing Forms" at: http://www.hksfc.org.hk/eng/licensing/html/sample_forms.htm.

A feasible blueprint on regulation of listing

In response to the Government's consultation on the proposals to enhance the regulation of listing, the SFC has submitted its views to the Administration.

The SFC's response is founded on a consensus view. In particular, there is consensus with HKEx about the fundamental direction of reform, which is:

- to give statutory backing for the Listing Rules, hence enabling effective enforcement;
- to adopt a North American model, where the statutory regulator "seeks to ensure compliance with statutory requirements (generally disclosure-related)";
- shared regulation of listed companies

with clear division of labour, to be delineated along statutory and non-statutory lines; and

- to build on Dual Filing to give statutory effect to the Listing Rules, recognising its current defects.

The SFC's proposals operate within the Securities and Futures Ordinance framework. They preserve and, where appropriate, strengthen the existing checks and balances contained in the "three-tier" regulatory system.

The SFC considers its proposals will upgrade Hong Kong's regulatory structure for listed companies to assure Hong Kong's long-term future as an international financial centre. Implementation will result in clear

benefits for investors, listed companies and intermediaries. The SFC also believes that reform should not be delayed.

For details of the SFC proposals, please see press release issued on 29 January 2004, available on the SFC website at: www.hksfc.org.hk/eng/press_releases/html/index/index0.html.



Mr Sheng (right) listens to a media question during a press briefing to present the SFC's response to the Government's consultation paper. Sitting next to him is Mr Ashley Alder, Executive Director of Corporate Finance.

Be a professional and act like one

Dual Filing helps identify disclosure deficiencies and the work of sponsors will come under close SFC scrutiny. We were alarmed recently that a sponsor had essentially copied another prospectus for its client when making a listing application.

As SFC licensees, listing sponsors must act professionally and diligently. They must

understand their clients' businesses in order to prepare the prospectus. They should have no illusions that substandard work would be accepted by the SFC.

For the three months to last December, the SFC received 21 listing applications via the stock exchange and commented on nine cases. The sponsor mentioned above and

another sponsor were responsible for five of those nine applications. Despite their small staff, they had each put in several applications last year - many of which had disclosure deficiencies.

The SFC has been monitoring the two firms closely. We are concerned if they have sufficient resources to fulfil their professional and regulatory obligations.

For more details, please see press release issued on 15 January 2004, available on the SFC website at: http://www.hksfc.org.hk/eng/press_releases/html/index/index0.html.

FAQs

Q: Although the stock I hold did not declare any dividend last year, I was charged a scrip fee by my broker at year-end. Why?

A: If no dividend was declared and no book-close date was announced by a listed company in the last 12 months, the "deemed book-close date" will be set on 31 December. The Central Clearing and Settlement System (CCASS) charges its broker participants a scrip fee of \$0.75 per board lot on the deemed book-close date, calculated according to the net increase in aggregate balance of that stock in a participant's account over the last 12 months. Generally, brokerage firms pass on this charge to their clients and may even levy additional fees.

In brief

Since 8 December 2003, all Internet email exchanges between Mandatory Provident Fund Schemes Authority and the SFC have been automatically routed through **FinNet**, the business-to-business private network built to support the financial communities in Hong Kong. It is the same arrangement the SFC has already put in place with Hong Kong Exchanges and Clearing Limited and Hong Kong Monetary Authority.

Proposals to benefit 1,000,000 Hong Kong's investors

SFC Smart Investor
Awards

An SFC working group has proposed measures to strengthen regulation of the brokerage industry and to enhance investor protection, without causing undue hardship to the industry.

To address the risks involved with securities margin financing and the pooling and re-pledging of client collateral by securities margin finance providers, the SFC Working Group on Review of the Financial Regulatory Framework for Licensed Corporations has proposed the following measures:

- limit the amount of client collateral that can be re-pledged by a broker to secure its borrowings;
- increase the haircut percentages under the Financial Resources Rules;
- improve the Code of Conduct disclosure obligations by requiring a firm to disclose additional information to its clients and/or the regulator; and
- step up investor education on pooling risk.

The purpose of the proposed measures is to benefit Hong Kong's 1,000,000 investors. These measures will also benefit the development of Hong Kong's securities market, and strengthen Hong Kong's position as an international financial centre. The SFC recognises that fair treatment and appropriate protection of investors are pre-requisites for any successful securities market and a healthy securities industry.

The SFC intends to submit a report containing the proposals to the Panel on Financial Affairs of the Legislative Council soon. The SFC proposes to consult the public on the recommended measures, to see whether or not they are appropriate and if so, the timetable for implementation. On these issues, the SFC maintains an open mind.

For more details, please see SFC press release issued on 6 February 2004, available on the SFC website at: http://www.hksfc.org.hk/eng/press_releases/html/index/index0.html.

Members of the public may receive an SFC Smart Investor Award if they report to the SFC any suspicious scam websites or boiler rooms that target Hong Kong investors.

If a reported case is accepted by the SFC as to be included in the Alert List, the person who reports it will receive the Smart Investor Award and an SFC corporate gift. The Alert List is on the SFC website and publishes names of unlicensed overseas companies or suspected boiler rooms/scam websites investors should avoid.

The SFC has also for the first time created two "fake" scam websites to educate investors on the typical pitfalls.

Details of the above are on the SFC website under "Advice to Investors" - "Investor Alert" at: <http://www.hksfc.org.hk/eng/investor/html/alert.htm>.

Boiler room operations, where unlicensed persons cold call and pressure investors to part with their money, are not unique to Hong Kong. A Spanish production house making documentaries for European TV stations recently interviewed our Executive Director of Enforcement, Mr Alan Linning, on how the SFC tackles boiler room scams and co-operates with our overseas counterparts.



Circulars

The following recently published circulars are available on the SFC website under "Bills, Legislation and Codes" - "Regulatory Handbook" - "Codes, Guidelines and Circulars" at: <http://eappo1.hksfc.org.hk/apps/CC/RegulatoryHandbook.nsf/GenerateHTMLTBEnglish?openAgent&1>.

1. Circular to Licensed Corporations and Associated Entities Anti-Money Laundering / Combating Terrorist Financing (1) US President's Executive Order 13224 (2) United Nations (Anti-Terrorism Measures) Ordinance and United Nations Sanctions (Afghanistan) Regulation (28.01.2004)
2. Circular to Licensed Corporations - Migration to the new regime under the Securities and Futures Ordinance (27.01.2004)
3. Circular to Licensed Corporations and Associated Entities Anti-Money Laundering / Combating Terrorist Financing (1) US President's Executive Order 13224; (2) United Nations (Anti-Terrorism Measures) Ordinance; and (3) United Nations Security Council Resolution (UNSCR) 1483 (14.01.2004)
4. Circular to Licensed Corporations which are licensed solely for Types 4, 5, 6 and/or 9 regulated activities and subject to the specified licensing condition - Compliance with Section 56(3) of the Securities and Futures (Financial Resources) Rules to Submit Financial Return (12.01.2004)
5. Circular to Licensed Corporations - Notification on cessation of accreditation and return of licence (23.12.2003)
6. Circular to intermediaries Conducting Type 1 or Type 8 Regulated Activity - Allocation Problem of China Life IPO (18.12.2003)



Investor focus

IPO investing step-by-step

When you subscribe for new shares in an initial public offering (IPO), study the basic facts about the company and the following application procedures:

1. Read the prospectus and note the important dates of the IPO in the "Timetable" section.
2. When you complete an application form, read carefully the instructions and fill in the required information clearly and correctly. Remember to sign the form.
3. Submit the application form and payment to a drop-in box at a receiving bank. If you subscribe for new shares through your bank or brokerage, make sure you know the relevant procedures.
4. Allotment results will be announced on the date specified in the prospectus in newspapers and on the website of HKEx or GEM. You can also check with the share registrar.
5. If you are applying through white forms and your application is successful, share certificates will be mailed to you. Refund cheques will also be mailed to you if your application is rejected or only partially successful.
6. If you do not receive the share certificates or refund cheques within three working days after the scheduled despatch date, contact the share registrar.

Bear in mind the risks involved when receiving refund cheques and share certificates by mail. If you do not receive the share certificates on time, you may not be able to sell the shares on the first day of listing.

Moreover, if you subscribe for shares on margin, you have to pay interest on the loan regardless of the number of shares you are allotted. It is possible that the transaction costs plus the interest exceed any potential gains in selling the shares.

Finally, always consider your limits and the risks you are willing to take when applying for IPO shares. Do not commit beyond your means.

Quarterly results

The SFC has just published its latest Quarterly Report covering the period from October to December 2003. The Commission's accumulated surplus for the nine months to December 2003 reached \$65.2 million, compared with a projected deficit of \$70 million in the approved budget. Reserves at the period end stood at \$631 million.

Total revenue for the three quarters was \$369.4 million, 42.5% higher than a year ago. The operating results were better than expected largely because levy income had benefited from the improvement in market turnover. Total expenditure was 3.3% higher at \$304.2 million mainly because of the office relocation expenditure and additional personnel expenses for dual filing functions.

SFC Chairman Mr Andrew Sheng expects to report a surplus in the final quarter to 31 March 2004, barring sudden changes in market conditions. Nevertheless, the SFC will continue to exercise tight control on expenditure during the rest of the current financial year.

For more financial details and a review of operations, please view the Quarterly Report on the SFC website under "Press Releases, Publications & Speeches"- "Publications"- "Quarterly Reports" at: http://www.hksfc.org.hk/eng/press_releases/html/quarterly_report.htm.



Investor
resources

The following items of investor resources have been made available to the investing public recently. They can be found on the SFC website or the Electronic Investor Resources Centre (eIRC) at the URLs provided.

Investor Alert Updates (<http://www.hksfc.org.hk/eng/investor/html/alert.htm>):

Six unlicensed companies including "Hamilton Frasier Group" (12.02.2004), "Professional Capital Management Pte Ltd", "Rementon & Fitzgerald" (10.02.2004), "Bernard Rothschild Consultants", "Marcus Goodman & Phillips Consultants" and "Thompson Whitehurst" (26.01.2004) and a suspicious fraudulent website of "Bank of Swisscredit" (13.01.2004) have been added to the Warning List.

Dr Wise's Column (http://www.hksfc.org.hk/eng/investor/html/dr_wise.htm):

Understanding Risk (27.01.2004), *The Tao of Investment* (16.01.2004), and *From Hiking to Financial Planning* (30.12.2003)

Others:

Educational articles: *Explaining Structured Notes* and *Evaluating Structured Notes* (29.12.2003)
(http://www.hkeirc.org/mainpage/index_display.jsp?eng_chi=1&menu_id=2)

Meet Dr Wise

SFC introduces new investor education column

The SFC has launched a new investor education column. The column is hosted by "Dr Wise", a fictitious character representing the collective wisdom and knowledge of market specialists and experts at the SFC.

Dr Wise talks to investors about the key issues of investing and explains in plain language regulatory issues in the increasingly complex financial market. Dr Wise's Column is written by various staff of the SFC, including SFC Chairman Mr Andrew Sheng.



Mr Sheng explains the purpose of the column: "Investing is a lifetime matter. All of us need to invest to have funds for the future, our children's education, our retirement and for a rainy day. Because we are investing our savings, we must understand what we are buying, why we are buying, what risks we face and what our investment objectives are."

Since the launch of the column in December 2003, two regular issues (*From Hiking to Financial Planning* and *Understanding Risk*) and a special Chinese New Year supplement (*The Tao of Investment*) have been published.

Dr Wise's Column is published on the last Tuesday of every month. The column is posted on the SFC website under "Advice to Investors" at: <http://www.hksfc.org.hk/eng/investor/html/index.html>. Investors are welcome to send their feedback and questions to Dr Wise by email at investor.info@hksfc.org.hk.

Other publications



The following publications have been published since the release of the last *SFC Alert*. They are available on the SFC website under "Press Releases, Publications & Speeches" - "Publications" at: http://www.hksfc.org.hk/eng/press_releases/html/publication.htm.

1. SFC Quarterly Report - October to December 2003 (13.02.2004)
2. SFC Enforcement Reporter - February 2004 (10.02.2004)
3. Response of the Securities and Futures Commission to the Government's Consultation Paper on Proposals to Enhance the Regulation of Listing (29.01.2004)
4. SFC Enforcement Reporter - January 2004 (14.01.2004)



Recruitment

The following SFC positions are open. For application and details of the openings, please visit the SFC website under "Employment & Miscellaneous" at: <http://www.hksfc.org.hk/eng/miscellaneous/html/employment.htm>.

- **Senior Manager/Manager - Enforcement (Surveillance)**
- **Administrator - Licensing**
- **Office Assistant**
Apply by: 21.02.2004
- **Manager - Corporate Finance**
Apply by: 23.02.2004



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@hksfc.org.hk.



Feedback

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

Securities and Futures Commission
Office : 8/F Chater House, 8 Connaught Road Central, Hong Kong
Phone : (852) 2840 9222
Fax : (852) 2521 7836
Investor Hotline : (852) 2840 9333
Media : (852) 2840 9287
SFC website : www.hksfc.org.hk
E-mail : enquiry@hksfc.org.hk
Electronic Investor Resources Centre (eIRC) : www.hkeirc.org