

Regulating for better markets 15 Years of SFC

The SFC has published its Annual Report for 2003-2004. It has achieved a \$125 million surplus after two years of deficit result.

In the financial year to 31 March 2004, our total revenue was \$551 million, 63% higher than the previous year's. This was mainly due to improved market turnover, which lifted levy income. We continued to implement cost control measures. Total operating expenditure after depreciation

edged up by 7% to \$426 million. If the one-off office relocation expenditure and additional staff costs for new functions were excluded, the increase was 2% or \$7.4 million.

Reserves at the year end stood at \$691 million.

The Annual Report also details the SFC's achievements during the year and our work in progress. *(Continued on page 3)*



SFC Chairman Mr Andrew Sheng (second from the right) and Executive Directors (from left) Mr Alan Linning, Mrs Alexa Lam and Mr Ashley Alder met the media in May when publishing the Annual Report.

All about **Stock Investing**



Investors who wish to learn more about investing in stocks should not miss a new Cantonese television drama series jointly produced by the SFC and Radio Television Hong Kong. The programme began broadcasting on 13 June 2004.

All about Stock Investing features nine five-minute episodes which are linked by six characters on a public mini-bus. Interviews and news footages are intercut into the drama to help explain the topics. The series covers topics including IPO investing,

pooling risk of margin accounts, dealing with market information, corporate governance, shareholders' rights, custody of stocks and the different kinds of risks that investors might face.

The programme is aired on Sunday at 11 am on ATV Home and 6:20 pm on TVB Jade, and will be repeated at 1:30 am on ATV Home on the following Monday. It will also be shown on FirstVision of New World First Bus in July. For more details, please see press release issued on 11 June 2004, available on the SFC website at: <http://eapp01.hksec.org.hk/apps/cc/PressRelease.nsf/eng/!kupNewsCode/04PR108?openDocument>.

INSIDE

- Senior management interview: Brian Ho P.2
- Brokerage firms should watch out for frauds
- Investigations into share placements P.3
- Glossary
- FAQs: brokerage commission
- Regulatory co-operation with Indonesia P.4
- Smart investors receive awards
- Panel finds SFC procedures in order
- Investor focus: Looking for a financial adviser? P.5
- Know more about bonds
- Dual filing puts sponsors under the spotlight P.6
- Shareholders Group

An SFC delegation participated in the 29th **Annual Conference of the International Organization of Securities Commissions (IOSCO)** in Amman, Jordan from 17 to 20 May 2004. During the conference, SFC Chairman Mr Andrew Sheng was appointed Chairman of the IOSCO Technical Committee for a two-year term. We promoted the attractiveness and advantages of Hong Kong, the host city of the IOSCO Annual Conference in 2006. Picture shows Mr Sheng (right) and Dr Bassam Saket, Executive Chairman of Jordan Securities Commission, in front of the SFC exhibition booth.



For more details, please see press releases issued on 18, 19 and 21 May 2004, available on the SFC website at: <http://eapp01.hksec.org.hk/apps/CC/PressRelease.nsf/eng/HTMLGeneralNews?openAgent>.



Senior management interview

Mr Brian Ho, Senior Director of Corporate Finance

You are part of what is known as the Takeovers Executive. What is your area of responsibility?

We administer the codes on takeovers and mergers and share repurchases. Our team has 14 executives and five support staff, and is led by the Executive Director of Corporate Finance. The codes aim to ensure fair treatment for shareholders in takeovers, mergers and share buy-backs.

How?

Through speed, certainty and flexibility. In no uncertain terms, the codes set out the provisions the various parties must follow in a takeover bid. The non-statutory codes can be administered speedily and with flexibility. It is expressly provided in the codes that they are framed in non-technical language and should not be interpreted as if they were statutes.

Is it true to say that the public know little about the Takeovers Executive?

We operate in a transparent manner. Market practitioners have had no problem contacting us, usually by telephone, for consultation on the application of the codes. We publish decisions made by the Takeovers Panel, which reviews the Executive's decisions. However, the Executive may not normally be able to discuss individual cases publicly due to secrecy obligations. We also consult the market's views when we review the codes every two or three years.

Is the Takeovers Code due for a review?

Since our last major review in 2002, there have been a number of issues which require amendments or clarification. For instance, there were several controversial issues relating to "one-cent offers". We plan to consult the public on these matters.



Which is the most difficult part of your work?

The circumstances in takeovers are so varied that making rulings and inter-

pretations are often not easy. It is fortunate that we can draw on experiences relating to takeover cases of the past 30 years or so in London and Hong Kong. We also have a very good relationship with the London Takeover Panel Executive and sometimes we discuss issues with them.

Surely you have had rulings reversed by the Takeovers Panel?

We are pleased that the Panel upheld our rulings in most of the cases. We respect the decisions of the Panel, whether they are in favour of the Executive or otherwise. The Panel, comprising market practitioners, has an excellent reputation and is determined to ensure fairness and equal treatment of shareholders in takeover transactions.

Do you enjoy your work?

I certainly do. I hope the low turnover rate - we have had only one staff leaving in the past several years - is evidence that my colleagues enjoy their work too. It is very important that we make sure work life here is interesting and challenging, as the SFC cannot pay fat bonuses even in a good year for the corporate finance sector. I believe in "people-based management principles".

Personal bio

- First joined the SFC in 1992 and re-joined in August 1995. Appointed Senior Director of Corporate Finance in October 2000.
- Previously practised as solicitor in Deacons and Freshfields from 1986 to 1992; worked in the corporate finance team of Crosby Capital Markets before re-joining the SFC in 1995.
- Regards himself as a serious audiophile and enjoys most of Prokofiev's symphonies.

Brokerage firms should watch out for frauds

We have recently issued a circular to brokerage firms reminding them of fraudulent activities targeting at them. This followed receipt of reports from some firms that fraudsters had attempted to deceive them. One firm suffered losses as a result.

In the circular, we identify fraudsters' common tricks - they often disguise as walk-in clients to open trading accounts - and provide useful tips for firms to ward them off. Firms are urged to observe

the "Know Your Clients" rules and put in place proper control procedures in handling clients' orders. Firms are also asked to report fraud cases to the SFC, and also to the Police for further investigation.

For more details, please see the circular, entitled Circular to Licensed Corporations which are licensed for Type 1 regulated activity - Watch out! Brokerage firms were defrauded again! issued on 3 June 2004, available on the SFC website at: <http://eapp01.hksfc.org.hk/apps/CC/RegulatoryHandbook.nsf/GenerateHTMLTBEnglish?openAgent&1>.

Investigations into share placements

Market practitioners are reminded to abide by the law when conducting pre-placement consultation.

The SFC is investigating unusual trading activities relating to the placement of shares by listed companies or their controlling shareholders.

We found that some investment banks acting as placing agents had tested the acceptance of share placements by consulting selected clients prior to the close of the market. They discussed the level of discount and indications of demand.

We believe that the mere awareness of such

placement activities might constitute insider information and create an unequal market. Using the information, one could trade to make profits or avoid losses.

In some cases, the SFC has reasonable grounds to believe that some institutional investors had prior knowledge of placement activities and acted upon this.

The unusual activity in those cases that are the subject of inquiries involved significant rises in market turnover, significant increases in short selling and deviations in the share price performance when compared to general market conditions.

We are aware of market concern that share placements could come to a halt because of the SFC action. We wish to stress that we have no intention to prohibit proper market activities including share placements. We are just reminding investment bankers and other market users of the importance to maintain market integrity and the consequences of breaches of the law and regulations - offenders are liable to prosecution and/or disciplinary action.

For more details, please see press release issued on 4 May 2004, available on the SFC website at: <http://eapp01.hksec.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/04PR81?openDocument>.

Glossary



We have published the third edition of the English-Chinese Glossary of Securities, Futures and Financial Terms to commemorate the 15th Anniversary of the SFC. The third edition contains over 14,200 terms with Hong Kong, Mainland and Taiwan common usage of the Chinese translation. We have also produced the Glossary in CD-ROM.

Printed copies are available at the SFC office for \$100 each and the CD-ROM is \$20. The SFC offers a 20% discount on the purchase of the printed Glossary to members of the

Hong Kong Securities Institute, students of tertiary institutions and academia, and for bulk purchase of 20 copies or more. A complimentary CD-ROM will be given with every purchase of the printed version at the SFC office or through bulk purchase order until the end of July 2004 (while stock lasts).

For more details, please see press release issued on 12 May 2004, available on the SFC website at: <http://eapp01.hksec.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/04PR84?openDocument>.



FAQs

Q: I placed a "limit buy" order with my broker. It was filled on two trading days and I had to pay additional brokerage commission. Why?

A: Brokerage commission is normally charged at a percentage of the transaction value, subject to a minimum per transaction. If an investor places a limit buy order without specifying an "all or nothing" restriction, chances are that the order may be partially filled when there are not sufficient stocks available at the price specified. This order, if not a "day order", may be carried forward to the next trading day and executed for the unfilled portion. As a result, the order may be treated as separate transactions. If the minimum commission applies to both transactions, the total commission charged might be higher than what would have been charged if the order had been filled completely in a single transaction.

(Continued from page 1)

15 Years of SFC

The Annual Report was laid before the LegCo on 12 May 2004 following submission to the Financial Secretary.

The Annual Report is available on the SFC website at: http://www.hksec.org.hk/eng/press_releases/html/annual_report.htm. Printed copies and CD-ROM are available at the SFC office for \$100 and \$30 each respectively.

The theme of the Annual Report is *Regulating for better markets - 15 Years of SFC*. There is a Chinese saying that it takes 10 years to grow a tree and 100 years to grow a man. An institution is like a tree and 15 years is just a short time for an institution like the SFC, which was established on 1 May 1989. In the years to come, the SFC will continue to regulate so we have better markets in Hong Kong.



Regulatory co-operation with **Indonesia**

On 25 May 2004, the SFC signed a Letter of Intent with Indonesia's Ministry of Finance Capital Market Supervisory Agency (Bapepam) on the establishment of regulatory co-operation between the two regulators.

The SFC and the Bapepam will work towards the mutual recognition of investment funds authorised in their respective jurisdictions for cross-border distribution, with the longer-term goal of entering into a revised Memorandum of Understanding.

Under the Letter of Intent, both authorities

agree to strengthen co-operation in matters pertaining to cross-border trading and the supervision of regulated funds.



SFC Chairman Mr Andrew Sheng (right) received a souvenir from Mr Herwidayatmo, Chairman of the Bapepam, after the two signed the Letter of Intent in Jakarta, Indonesia.

Both sides have also agreed to establish a bilateral working group to study how to achieve mutual regulatory assistance, including the exchange of views and information.

For more details, please see press release issued on 25 May 2004, available on the SFC website at: <http://eapp01.hksfc.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/04PR99?openDocument>.

Smart investors receive awards

Three investors have been given SFC's Smart Investor Awards for reporting suspected boiler rooms. As a result of their information, the names of four dubious operators have been posted on the Alert List of unlicensed overseas companies and suspected scam websites on our website. The Award is still open and you are welcome to report other suspected boiler rooms and scam websites to us.

For more details, please see press release issued on 23 April 2004, available on the SFC website at: <http://eapp01.hksfc.org.hk/apps/cc/PressRelease.nsf/eng/lkupNewsCode/04PR78?openDocument>. The Alert List is available on the SFC website at http://www.hksfc.org.hk/eng/investor/html/unlicensed_overseas_comp.htm.



Picture shows (from left) SFC's Executive Director and Chief Operating Officer Mr Peter Au-Yang and the award winners Mr Leung Man Yan, Mr Ho Chi Yiu and Mr Kwok Kin Wai. They each received a certificate of recognition and an SFC corporate watch.

Panel finds SFC procedures in order

In May 2004, the Process Review Panel for the SFC published its third Annual Report to the Financial Secretary covering its work in 2003, during which it reviewed the SFC's procedures covering various areas of its work together with 51 completed cases.

The Panel concluded that adequate safeguards and checks and balances existed in the SFC's internal procedures, but had made certain recommendations for improvement. The Panel noted the SFC had already been positive in adopting the recommendations.

The Panel also sought the industry's views on how to improve SFC's internal procedures, in particular those relating to licensing, investigation and disciplinary action.

The Panel also concluded that in its handling of the cases examined by the Panel, the SFC had generally followed its internal procedures.

We welcome the Panel's findings and look forward to continuing our co-operation with the Panel in its fourth year of work.

The Panel's report is available on the Financial Services and the Treasury Bureau's website at www.info.gov.hk/fstb/fsb/topical/preport03.htm.



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://eapp01.hksfc.org.hk/apps/CC/RegulatoryHandbook.nsf/GenerateHTMLTBEnglish?openAgent&1>.

1. Circular to Licensed Corporations - Implementation of Hong Kong Accounting Standards 39 and 32 (09.06.2004)
2. 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 (08.06.2004)
3. Circular to Licensed Corporations which are licensed for Type 1 regulated activity - Watch out! Brokerage firms were defrauded again! (03.06.2004)
4. Circular to Licensed Corporations - Responsible Officers (28.05.2004)
5. Circular to Licensed Corporations and Associated Entities - Anti-Money Laundering / Combating Terrorist Financing US President's Executive Order 13224 (10.05.2004)
6. Circular to Licensed Corporations which are Participants of Hong Kong Futures Exchange Limited - Compliance with the Securities and Futures (Insurance) Rules (29.04.2004)
7. Circular to Licensed Corporations which are Participants of The Stock Exchange of Hong Kong Limited - Compliance with the Securities and Futures (Insurance) Rules (29.04.2004)
8. Circular to Licensed Corporations and Associated Entities - Anti-Money Laundering / Combating Terrorist Financing United Nations (Anti-Terrorism Measures) Ordinance and United Nations Sanctions (Afghanistan) Regulation (15.04.2004)



Investor focus

Looking for a financial adviser?

Sometimes, you may need a financial adviser to guide you in the right direction before you make an investment. To check if an adviser is trustworthy and has the expertise to give advice that suits your financial situation, ask to see his licence and the credentials of the company he represents, as well as details of experience and track records. Shop around and compare the services of financial advisers and the investment products they have on offer.

Be sure to tell your financial adviser everything about your financial circumstances, including details of your investment objectives and risk tolerance. This will ensure that an appropriate investment plan can be designed for you. Advisers who do not bother to ask you for such information and simply offer unrealistic promises of quick and easy profits should be avoided.

Investor Tips

- Your financial adviser should set out the fees and charges clearly and the scope of service he provides. Ask whether he is going to charge you a straight fee, or whether his fees are paid on a commission basis by the issuers of the products that he successfully promotes.
- Make sure you fully understand the products recommended to you by the financial adviser, i.e., the risks involved, and the terms and conditions. Read the offering document thoroughly and ask the adviser to set out and justify his recommendations in writing.
- If you are asked to sign a disclaimer, for instance when you are buying into an unauthorised fund, understand clearly why you are being asked to sign it and what responsibilities the adviser is disclaiming. Retain copies of everything that you have signed, including the client agreement and the disclaimer.
- Think carefully before you accept any proposal to gear up an investment, as doing this incurs interests costs and increases your risk. Do not invest in anything that appears to be riskier than you are prepared to take.

For more information and advice, please see an article entitled *Financial Advisers - take your time to find the one who can serve you best* under *Dr Wise's Column*, available on the SFC website at: http://www.hksfc.org.hk/eng/investor/html/dr_wise/apr04.htm.

Know more about bonds

There are a wide variety of bonds in the market and new products are emerging from time to time. How do you choose them?

Get advice from Dr Wise. In his latest article, *Investing in Bonds*, Dr Wise discusses the key variables and risks of investing in plain vanilla bonds and structured bonds. He also discusses the key questions that investors should ask before making any bond investment.

You should try to understand what a particular bond issue involves and assess whether it is suitable for you. Dr Wise reminds you to seek advice from the brokers or banks offering the investment if you are in doubt. These persons are required to give you a prospectus, satisfy themselves that the investment is suitable for you and explain the features and risks before they accept your application to invest.

Dr Wise is a fictitious character representing the collective wisdom and knowledge of market specialists and experts at the SFC. His column is published on the last Tuesday of every month. Investing in Bonds is available under the column on the SFC website under "Advice to Investors" at: <http://www.hksfc.org.hk/eng/investor/html/dr.wise.htm>. Investors are welcome to send their feedback and questions to Dr Wise by e-mail at investor.info@hksfc.org.hk.



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>):

Nine unlicensed overseas companies including "Farber Pakenham and Associates" (01.06.2004), "Parkdale Trading (1986) Limited" (31.05.2004), "Capital Asset Management Limited", "Uniline International Investment Consultant Limited" (25.05.2004), "Commonwealth Capital Corporation Limited" (18.05.2004), "Global One Foundation, Inc", "Reymount Investments Limited" (05.05.2004), "Procap Management" (28.04.2004) and "Herise Invest Limited" (22.04.2004), and two suspicious fraudulent websites of "www.daifook.com" (18.05.2004) and "www.baoyuans.com" (03.05.2004) have been added to the Alert List.

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

Investing in Bonds (25.05.2004), and *Financial Advisers - take your time to find the one who can serve you best* (27.04.2004)

Others:

Educational articles: *How Complicated Are Guaranteed Funds?* (http://www.hksfc.org.hk/eng/investor/html/stories/funds/g_fund_hket.htm), *Is an Exchange Traded Fund a Stock or a Fund?* (<http://www.hksfc.org.hk/eng/investor/html/stories/funds/etf.htm>), *Hedge Fund = Risk-free Fund?* (http://www.hksfc.org.hk/eng/investor/html/stories/funds/hf_1.htm), *Exploring Hedge Fund Reports* (http://www.hksfc.org.hk/eng/investor/html/stories/funds/hf_2.htm), *Exotic Warrants - Basics* and *Trading Exotic Warrants* (under 'Warrants' at http://www.hkeirc.org/mainpage/index_display.jsp?eng_chi=1&menu_id=2), and *What is capital re-organization?* (http://www.hksfc.org.hk/eng/investor/html/questions/corpcap_capital_reorganization.htm)

Dual filing puts sponsors under the spotlight

Dual filing helps enhance the quality of corporate disclosure, in which sponsors have an important role to play. We expect sponsors' work to be up to professional standards. However, we have recently found that the work of some sponsors deserved our further attention.

During the 13-month period ended March 2004, we exercised our statutory powers to inspect and request documents from three sponsors. One of them is being considered for possible disciplinary action.

During the period, a few sponsor firms each filed a relatively large number of listing applications, many of which did not proceed following SFC comments. The highest number of applications made by a firm, which only has 11 licensed professional staff, was 12. Two sponsor firms had no successful applications. They submitted four and three applications respectively.

The SFC is concerned as to whether these and similar firms have sufficient resources to fulfil the professional and regulatory obligations required of them.

For more details, please refer to press release issued on 31 May 2004, available on the SFC website at: <http://eapp01.hksfc.org.hk/apps/cc/PressRelease.nsf/eng/!kupaNewsCode/04PR102?openDocument>.

Shareholders Group

The SFC Shareholders Group held its 19th meeting in May to discuss the regulatory regime for sponsors and independent financial advisers, HKEx's proposal to require Main Board companies to publish notification announcements in place of full announcements in newspapers, and HKEx's proposal to drop the requirement for Main Board companies to have a management presence in Hong Kong.

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. Enforcement Reporter (10.06.2004)
2. Quarterly Bulletin - Spring 2004 (21.05.2004)
3. Enforcement Reporter (19.05.2004)
4. Securities and Futures Commission Annual Report 2003 - 2004 (12.05.2004)
5. An English-Chinese Glossary of Securities, Futures and Financial Terms (12.05.2004)
6. Guidance Note on Position Limits and Large Open Position Reporting Requirements (20.04.2004)



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>.

- **Manager/Assistant Manager - Licensing**
- **Manager/Assistant Manager - Investment Products**
- **Manager/Assistant Manager - Intermediaries Supervision**
- **Manager/Assistant Manager - Supervision of Markets**
- **Manager/Assistant Manager - Corporate Finance**
- **Manager/Assistant Manager - Investor Education and Communications**



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.

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