SECURITIES AND FUTURES COMMISSION
證券及期貨事務監察委員會

Opening remarks
SFC Compliance Forum 2020

Mr Ashley Alder
Chief Executive Officer

30 October 2020

This morning I want to talk about some of the key challenges we face in Hong Kong and also internationally.

From a global perspective, the pandemic is obviously the dominant theme. The COVID crisis has put markets under unprecedented stress and the global financial system has faced its most serious test since the crisis in 2008. An extraordinarily rapid collapse of both supply and demand in March led to a "dash for cash" and a resulting liquidity crunch in global financial markets.

Of course, the COVID crisis is fundamentally different from the financial crisis 12 years ago. This time the shock originated from outside the financial system – a health crisis led to an economic crisis and then to distress in financial markets.

Regulatory response to COVID

The overriding objective shared by all financial regulators has been largely the same as it was 12 years ago. First, to intervene as necessary to ensure that a financial crisis does not make things even worse. Second, to maintain the functioning of fair and open markets to support real economies.

Here in Hong Kong, the Securities and Futures Commission (SFC) responded on multiple levels as events unfolded over the year. We focused on potential vulnerabilities, such as investment fund liquidity stresses and associated investor redemptions. We maintained a very close dialogue with firms and industry associations, and announced temporary measures to ease the pressure on an industry which, until recently, was largely working remotely.

We issued guidance together with the Stock Exchange to address market concerns about listed companies' earnings announcements and how and when shareholder meetings could be held.

With lockdowns and work-from-home arrangements in place, we also extended the implementation deadlines for some regulatory changes, and we made it clear that we would allow firms a degree of flexibility for staff who need to work from overseas. We also allowed more flexibility in the fund authorisation process.

Note: This is the text of the speech as drafted, which may differ from the delivered version.

Here I want to be clear that by being more flexible, we were very conscious not to lower our standards or compromise market integrity. Everything we have done is consistent with the overall global approach which has been to adapt to the new environment without relaxing prudential and conduct standards. We kept a close eye on operational risks arising from remote working, ensuring that the financial system remained resilient.

So far, Hong Kong has fared relatively well in dealing with the pandemic. Our policy measures since March have succeeded in alleviating market strains. Globally, stressed conditions have eased across markets and volatility has subsided. This was largely due to massive central bank intervention in corporate credit markets, which basically came to a standstill in mid-March.

Measures of market liquidity have returned to pre-crisis levels and we have seen increased investor risk appetite, with a resurgence of corporate bond issues. But the pandemic is not over; we now face the prospect of long term economic "scarring", increased solvency concerns, ballooning government debt overseas, enlarged central bank balance sheets and a gathering "second wave" of COVID infections in the US and Europe.

But on the whole, our regulatory expectations of market participants remain unchanged. We have stepped up our supervision of firms and funds to address potential vulnerabilities – especially new types of operational risks. We make sure our clearing houses manage their risks properly with appropriate margin policies.

As always, we will continue to pursue enforcement action to keep markets clean. Last week, in relation to the Malaysia 1MDB scandal, we levied our largest financial penalty ever. A subsequent editorial in the South China Morning Post emphasised the importance of the rule of law and clear enforcement of regulations to protect the market's credibility. It would be hard for anyone to disagree with that.

Geopolitical challenges

In addition to the pandemic, we face a second set of challenges which resonate in Hong Kong. These are tied up with geopolitical tensions. Market participants have raised concerns about sanctions from the US and the potential implications of the National Security Law on their activities.

We have issued several public statements to make it clear that we are highly attuned to the possible implications of sanctions and also the concerns that the new law gave rise to. In a public statement in mid-July, we made it clear that we were not aware of any aspect of the new law which could change the rules and accepted practices governing trading in our markets or the way firms access and disseminate information under our regulatory regime.

We also communicated what we expect of firms and market participants when they consider the implications of potential sanctions. That is, to manage their business and legal risks appropriately and treat affected customers fairly.

In doing so, the SFC has been conscious of its role to assure the market that the essential attributes of Hong Kong's regulatory system will remain unchanged amidst a febrile geopolitical environment.

In the past few months, we also made it clear that we will speak out in circumstances where matters of significant public interest call for a regulatory response from us.

For example, after a rise in the share price of Next Digital – the owner of Apple Daily – following police action, we issued two statements which clarified our role as market regulator amidst a fair amount of speculation in the media.

These statements, like everything we do, are rooted in our core values of independence, integrity and public accountability. We need to be clear-eyed about the challenges we face and we also need to maintain our independence and impartiality at all times.

Simply put, we are determined to ensure justified confidence in Hong Kong's markets notwithstanding the geopolitical background. We are not in the least concerned about irritating any particular constituency when doing our job as an independent regulator under the laws we administer. We will continue to regulate Hong Kong's markets in an impartial and transparent manner just as we have always done. You can depend on that.

Cloud storage requirements

Against this background, I should mention the requirements we set out last year in a circular on the use of external electronic data storage by firms. We made it a point that firms must ensure unrestricted access by us to regulatory records even if the data is stored with an external provider outside of Hong Kong. Without this, our supervisory and enforcement functions simply could not operate properly.

For example, if regulatory records are required for legal proceedings initiated by us or the Department of Justice, then it is crucial to ensure their authenticity and integrity, and that we have prompt access to them.

Some have speculated whether these requirements had something to do with the geopolitical issues I mentioned earlier. This is entirely untrue, but illustrates the difficult environment in which we now operate.

First, the requirements were prompted in part by IOSCO's[1] work on outsourcing and cloud computing. IOSCO was working on this in 2017, well before the advent of the current tensions.

Second, our primary purpose was to enable firms to store their regulatory records using external providers for electronic data storage, including the cloud. Firms have a legitimate need to adopt new technology which increases efficiency and adds value, and there are clearly benefits in letting them do so.

However, this has to be done in a way which complies with key regulatory objectives and requirements. Licensed firms need our written approval to use premises to keep regulatory records. In the past, and for obvious reasons to do with jurisdictional reach, it has not been our practice to approve premises outside of Hong Kong for this purpose.

So when we made the decision to move ahead, we did so purely for regulatory reasons. And our overarching objective was to allow cloud storage whilst ensuring that it would in no way impede our ability to carry out our core regulatory functions.

This last point is critical. The prospect of a case not being pursued just because the SFC could not obtain regulatory records located outside Hong Kong would be unacceptable. Or if

[1] International Organization of Securities Commissions

we could not demonstrate to a court that records had been properly preserved from tampering, this would seriously compromise our effectiveness as a regulator.

Since we first announced these requirements last year, we have heard concerns that they may present some practical difficulties. Therefore, subject to certain criteria, we will adopt the industry's suggestion that a firm's Managers-In-Charge be designated to bear primary responsibility for ensuring compliance in this area, in line with our broader objective to reinforce the accountability of senior management. We will soon publish a set of frequently asked questions (FAQs) to explain in more detail how this will work.

From challenges to opportunities

Moving from challenges to opportunities, the most obvious is to expand Hong Kong's role as the essential gateway bridging capital flows between the Mainland and overseas. More than ever, Hong Kong's financial services industry is positioned to benefit from the further opening up of the Mainland market and the development of the Greater Bay Area.

Stock Connect has recorded spectacular growth since its launch and southbound trading accounts for an ever-larger share of Hong Kong's stock market turnover. And despite global market volatility, Hong Kong has seen more secondary listings of US-listed Mainland firms as the decoupling of the US and China gathers pace. The new listing regime for emerging and innovative companies has diversified the issuer base.

We are also driving the development of green and sustainable finance. This is a key focus for us as we believe Hong Kong is well placed to become a regional leader. The challenges we have faced this year underscore the need for us to stay focussed on the operational resilience of our firms and market infrastructure. But we also need to keep ahead of global issues such as climate change, new technologies and the continuing response to COVID.

This year has been an extraordinary one, and in many ways uniquely difficult for Hong Kong despite the subsidence of social unrest. But we have shown that we can work together to adapt and make the adjustments needed to meet unprecedented challenges.

To conclude, I want to stress once again that the fundamentals have not changed in any way, and that our stance as the regulator of Hong Kong's capital markets remains the same. This is vital to maintain trust and confidence in our work despite a fraught political environment. We fully understand that investor confidence in the regulatory system is absolutely essential for Hong Kong to thrive as an international financial centre.