

7 August 2002

The Honourable Henry WU
Deputy Chairman
LegCo Panel on Financial Affairs
Legislative Council Building
8 Jackson Road
Central
HONG KONG

Dear Mr Wu,

**Request for the setting up of a commission of inquiry
under the Commissions of Inquiry Ordinance (Cap. 86)**

The Chief Executive has asked me to thank you for your letter of 1 August 2002 on the above subject and to reply to it on his behalf.

The Chief Executive has followed closely recent events relating to the release of consultative proposals on delisting mechanism. He has made it clear that, as an accountable Government, we are committed to establishing, without delay, the circumstances leading to these events and the arrangements for the preparation and release of the relevant Consultation Paper. In consultation with the Chief Executive, the Financial Secretary has appointed Mr Robert Kotewall and Mr Gordon Kwong to conduct an independent inquiry into this matter. The terms of reference of the independent panel of inquiry are –

- (a) To examine the existing procedures for the preparation and making of new or amended HKEx rules and regulations, including the process of consultation with the trade and the public;

- (b) Having regard to the findings in (a), to review the arrangements for the preparation and release of the Consultation Paper;
- (c) To make recommendations as to the measures to be adopted to improve where necessary the coordination in and procedures for the preparation and making of similar rules and regulations in the future, including the process of consultation with the trade and the public; and
- (d) To submit a report with conclusions and recommendations to the Financial Secretary by 10 September 2002.

Given his overall responsibility for financial and monetary policies, it is entirely appropriate for the Financial Secretary to set up the independent inquiry to establish what happened in the incident and recommend improvement measures. The Chief Executive is confident that the two panel members are fully capable of conducting a comprehensive inquiry in an impartial and transparent manner. The scope of the inquiry will include the relevant Government officials, as well as personnel of the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited. All parties concerned have agreed to render their full cooperation to the inquiry. There is, therefore, no need to resort to a statutory Commission of Inquiry which will take much longer to complete.

The Chief Executive has asked the Financial Secretary to report to him the findings of the inquiry once received. The Administration has also undertaken to brief the Legislative Council Panel on Financial Affairs and cause the report to be released. The Chief Executive believes the public interest is best served by giving a full account about the incident and taking prompt measures to prevent its recurrence in the future. Only a thorough and independent inquiry completed within a reasonably short timeframe would enable the Administration to achieve this.

In view of the above, the Chief Executive sees no need for the appointment of a statutory Commission of Inquiry to look into the same matter. The Administration will actively respond to the findings of the independent panel of inquiry when they are received.

Yours sincerely,

(Richard Yuen)
Private Secretary to Chief Executive

c.c. Financial Secretary
Secretary for Financial Services and the Treasury