

**Issues related to section 378 of Securities and Futures Ordinance (Cap.571)**

- (a) The policy considerations underlying SFC's existing practice in applying section 378 of the Securities and Futures Ordinance (Cap. 571) ("SFO") with regard to disclosure of information.
- (b) What measures are in place to assure the public that SFC, in discharging its obligations under section 378 of SFO, has struck a proper balance between the need to preserve secrecy on one hand, and the need to disclose information in the public interest on the other hand?
- (c) Members recall that when the Panel discussed cases of alleged market misconduct e.g. the Melco International Development Limited (meeting on 3 April 2006) and issues related to change in shareholding involving PCCW Limited (special meeting on 23 November 2006), representatives of SFC advised at the meetings that they were bound by the secrecy provision under section 378 of SFO and could not therefore disclose information on the cases in question. However, some members consider that as section 378 does not impose an absolute obligation on SFC to preserve secrecy, SFC should be invited to re-consider its policy on disclosure of information and with reference to the two aforesaid cases and other cases as deemed appropriate by SFC, to advise whether and what further information on such cases can now be disclosed.
- (d) Whether regulators of overseas jurisdictions are bound by similar secrecy provision and if yes, the nature of such statutory obligation and any discretionary grounds or circumstances under which the regulators may disclose information on specific cases.