

10th May 2005

To : Clerk to Bills Committee on
Securities and Futures (Amendment) Bill 2005

**Submission by The Hong Kong Society of Financial Analysts on
Splitting the post of the Chairman of the Securities and Futures Commission**

Further to our submission to The Legislative Council Panel on Financial Affairs dated 17th December 2004, and our statements made in Legco on 3rd January 2005, we have pleasure in offering further comment on the subject of the splitting of the Chairman and CEO of the SFC.

We would like to reiterate and expand on some of our key comments previously offered.

1) Best Practise and transparency

We strongly support the spirit of best practice and corporate governance in which this proposal has been made. However, we do not feel it has gone far enough as crucially, the process of selecting the future Chairman of the SFC has not been clearly articulated to the public. We feel it is vital that the Government clearly articulate the qualifications required of any future Chairman of the SFC and then defend its proposed candidate against those qualifications. We feel (for reasons outlined below) that the process of searching for a candidate for Chairman of the SFC should not be restricted to Hong Kong only, but should be global in its reach.

2) Our view on the qualifications of Chairman of SFC

The various papers on this issue have clearly set forth what the responsibilities of the future Chairman of the SFC shall be. We note that these are all serious and weighty responsibilities that could only be properly handled by a well trained, well experienced individual. For example, “setting agenda and establishing priorities” requires that the individual fully grasp the issues of a securities market regulator, such as global best practise, the practicalities of effectively regulating a complex securities market, and specifically to the case of Hong Kong, the complex issues relating to the listing in Hong Kong of a large number of mainland Chinese companies. The Chairman will also have to fully understand the legal and practical ramifications of administering fines and public sanctions against parties that are found to be in breach of the securities Ordinance (without being involved in individual cases). We cannot stress enough how crucial it will be for the SFC to effectively set its priorities in the future, and thus the person who will bear that responsibility must have technical competence and experience in the area.

The Chairman will also have the responsibility of “representing the SFC publicly, in liaison with local and international financial institutions and other stakeholders.” As such, the Chairman will be required to have a firm grasp of both the theoretical and technical aspects of the regulatory process. The Chairman will be required to interact with other regulators, for example in the crucial context of IOSCO and other forms of international collaboration amongst regulators and government bodies.

3) Remuneration & Commitment

With the two above points in mind, we cannot stress enough how important the selection of the future Chairman of the SFC will be. For that reason, we strongly believe that the government should not restrict its search to Hong Kong only. Further, we strongly believe that the financial aspects of the splitting of the Chairman and CEO of the SFC should not be a key determinant in the selection of a future Chairman. We believe that Hong Kong's interests will be better served by an SFC Chairman that is fully committed to and who devotes virtually 100% of his/her time to the job, and that, even though the position will be considered as non executive, the remuneration should be competitive with other high level public posts globally. It would be a false economy to try to save money on the salary of such an important position. Competitive remuneration is required to both attract qualified candidates and to instil a sense of duty in the future Chairman of the SFC. We believe there is a risk that the position would not be taken as seriously by either the Chairman or by others in the local and global community if the remuneration is seen as a token for public duty.

We look forward to the meeting on 19th May and hope to play a constructive role in the discussions on this very important issue.

For and on Behalf of
The Hong Kong Society of Financial Analysts



James Soutar, CFA
Director