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本函檔號 OUR REF.: SUB 12/2/1 (2005) Pt. 7  
來函檔號 YOUR REF.:

CB(1)1745/04-05(03)

7 June 2005

Mr Andrew Sheng, SBS, JP  
Chairman  
Securities and Futures Commission  
8/F, Chater House  
8 Connaught Road Central  
Hong Kong

*Dear Andrew,*

**Bills Committee on  
Securities and Futures (Amendment) Bill 2005**

I am writing to you to invite the SFC Board to consider the method and timing of formalising the division of responsibilities between the future Chairman and CEO of the Securities and Futures Commission (SFC) under the splitting proposal.

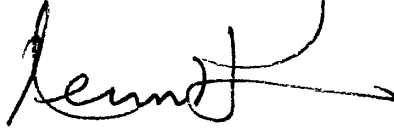
As the Commission is aware, the Government has introduced the Securities and Futures (Amendment) Bill 2005 into the Legislative Council (LegCo) in April 2005 to provide for the separation of the role of the chairman of the SFC from that of its executive arm. Our proposal seeks to build on the current strengths of SFC and further enhance its internal governance. Under the proposed structure, SFC will be led by a chairman whose role will be separated from the executive arm, while the executive arm will be headed by a Chief Executive Officer (CEO). This model is in line with best governance practice both locally and internationally.

With reference to the actual division of responsibilities in the UK Financial Services Authority (FSA) and to those proposed by the Hong Kong Institute of Certified Public Accountants, the Administration has drawn up broad principles governing the proposed division of responsibilities between the future Chairman and CEO of SFC (Annex). Our policy intent is to invite the SFC Board, basing on these broad principles, to draw up the details of the division of responsibilities between the future Chairman and CEO. We are of the view that the details of the division of responsibility between two key members of the SFC is an important matter for the SFC to stipulate, and do not believe such details should be stipulated in the Securities and Futures Ordinance (SFO). To ensure a complete understanding of the respective roles and responsibilities by the two post-holders and to enhance transparency, the details of the respective responsibilities can be attached to the appointment letter of the Chairman and the employment contract of the CEO. The details can also be made known to the public in the form of a press release and uploaded onto the website of the SFC.

At the Bills Committee meeting held on 30 May 2005 which you also attended, Honourable Emily Lau requested the Administration to start discussing with the SFC about the proposed delineation of roles and responsibilities between the future chairman and CEO. As a first step, I am therefore writing to you to invite the SFC Board to consider the broad principles at Annex. The Board's comments will be instrumental to fine-tuning the broad principles, which will be used as the basis for the Board to draw up the details of the division of responsibilities between the Chairman and CEO should the Bill be enacted.

On a related issue, the Government notices that there have been comments about stipulating the division of responsibilities between Chairman and CEO in the SFO. We wish to take this opportunity to explain to the Board that currently, the SFO do not stipulate the duties and division of responsibilities between Chairman, Executive Directors and Non-Executive Directors. In the overseas and local experiences we made reference to, such as the U.K. FSA, the Mandatory Provident Fund Schemes Authority, Mass Transit Railway Corporation Limited, Kowloon Canton Railway Corporation and Airport Authority, etc, the division of responsibilities between their Chairmen, CEO, members or directors are also not prescribed in the relevant legislation, but implemented by administrative means and proven effective and successful.

The Government does not support stipulating rigidly the duties and division of responsibilities of the SFC Chairman and CEO in the SFO because duties and responsibilities would evolve over time and it is prudent to provide flexibility to the SFC Board. The current division of responsibilities within the SFC is not statutory but is implemented by administrative means. Yet, it has been working well for the SFC for over 16 years. We believe the current administrative division of work would also succeed in the division of responsibilities between Chairman and CEO.

*Yours sincerely*  


( Kevin Ho )

Permanent Secretary for Financial Services  
and the Treasury (Financial Services)

c.c. Mrs Avia Lai, Administrative Assistant to Secretary for Financial Services  
and the Treasury  
Miss Polly Yeung, Clerk to Bills Committee

**Role and responsibilities of the Chairman of the Securities and Futures Commission (SFC)**

1. The Chairman has no executive responsibility for the day-to-day running of the SFC.
  
2. His/her key responsibilities are to -
  - (a) establish and develop an effective governing body<sup>1</sup>;
  - (b) lead the governing body as a team;
  - (c) plan and manage the governing body's business;
  - (d) set agenda and establish priorities for SFC;
  - (e) facilitate effective contribution of non-executive directors;
  - (f) maintain and develop a productive relationship with the Chief Executive Officer (CEO) of SFC;
  - (g) ensure that key issues are discussed by the governing body in a timely manner, that the governing body has adequate support and is provided with all the necessary information on which to base decisions;
  - (h) ensure that the SFC communicates effectively with its stakeholders; and
  - (i) represent the SFC publicly, in liaison with local and international financial institutions and other stakeholders.

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<sup>1</sup> Under the Securities and Futures Ordinance, the Commission shall consist of Chairman, Executive Directors and Non-executive Directors (section 1, Part 1 of Schedule 2). To distinguish between the Commission and its employees /staff, the term "governing body" is used to represent "the Commission" here.

## **Role and responsibilities of the CEO of SFC**

1. The CEO should have the executive responsibility on the day-to-day running of the SFC. He should implement the strategy agreed by the SFC governing body, and facilitate the effective functioning of the governing body. The key responsibilities include -

- (a) reporting to the governing body regularly with appropriate, timely and quality information;
- (b) informing and consulting the chairman and the governing body on all matters of significance to the SFC;
- (c) developing and delivering the strategic objectives agreed with the governing body; and
- (d) supervising the work of other Executive Directors and overseeing the day-to-day regulatory work of the Commission and ensuring that the Commission is equipped with the necessary staffing, financial and risk management systems for its mission.