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16 June 2005

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

*Dear Andrew,*

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

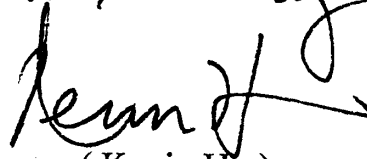
Further to my letter of 7 June and the Bills Committee meeting on 10 June, I am writing to provide more information about the splitting proposal so as to facilitate the discussion of the SFC Board on 20 June 2005.

The document at Appendix sets out issues concerning the objectives, principles and various implementation aspects of the splitting proposal. All these issues have been raised at the Bills Committee and we consider it useful to take this opportunity to explain to the SFC Board so that the Board would have the information to consider the division of responsibilities between the future Chairman and CEO of the SFC under the splitting proposal.

You said at the Bills Committee that the splitting into the Chairman and CEO positions and their respective roles is a policy decision for the Government. The Government has already clearly indicated its policy intentions in the splitting of the posts in putting forward the draft Bill, now under discussion in the Bills Committee of LegCo. As to the respective roles of the Chairman and the CEO, the material now provided in the Appendix will

have indicated the broad outline. To put it simple, we see the future Chairman concentrating more on leading the SFC Board in determining those important issues which now go to the Board. The CEO will, in our view, operate under the Board's delegated authority to handle almost all of the SFC's day-to-day business, including those relating to licensing and regulation of the market, in particular in relation to the licensing and regulatory decisions in the individual cases. It will be for consideration whether the SFC Board may wish, to delegating to the CEO and other executive directors, those authority and powers under the SFO, to draw up overall guidelines to safeguard the consistency, objectivity and fairness in the exercise of such delegated powers and to provide for efficient checks and balances. It will also be for the Board's consideration whether some formalized firewall arrangements should be set up so as to ensure that there is no real or apparent conflict of interest in the handling of individual cases and the availability and transmission of information to different groups and individuals in the SFC. We imagine that these guidelines and firewall arrangements must have been devised and used by the SFC under existing arrangements and it will only be a matter of adapting or formalizing them to suit the new circumstances.

The Government would be happy to provide more information, if required, to facilitate the Board's discussion on 20 June.

*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

## Splitting of the Chairman post of the Securities and Futures Commission (SFC) into a Chairman post and a Chief Executive Officer (CEO) post

### (a) Objectives and Principles

Issue	The Government's view / policy intention
1. What are the objectives of the splitting proposal ?	<p>The current Chairman post of the SFC is in effect a Chairman cum CEO post. The splitting proposal is to provide for the separation of the Chairman from the executive arm. By doing so, the Chairman could be relieved from the day-to-day operational and regulatory work and could focus on leading the Board<sup>1</sup> in setting the overall directions, policies, agendas, strategies and priorities of the Commission. More importantly, as the Board will no longer be led by an executive Chairman, this will increase internal checks and balances and enhance the role of the Board in supervising the performance of the executive arm of the Commission.</p> <p>The SFC Board may wish to note that some deputations which attended the Bills Committee meetings have commented that the powers of the Commission were over-concentrated in the executive arm and that the industry wished to see more checks and balances through the implementation of the splitting proposal. Various organizations have also indicated support for the proposal. For instance, the Hong Kong Bar Association supported the splitting proposal and advised that <b>“such separation should result in increased objectivity and independence on the part of the chairman and enhance internal checks and balances.”</b></p>

<sup>1</sup> Under the Securities and Futures Ordinance (SFO), the Commission shall consist of Chairman, Executive Directors (EDs) and Non-executive Directors (NEDs) (section 1 of Part 1 of Schedule 2). To distinguish between the Commission and its employees or staff, the “Board” is used in this document to represent the Commission.

Issue	The Government's view / policy intention
2. Is the proposal feasible ?	<p>The proposal is feasible as Hong Kong has accumulated much experience in implementing similar split model in other financial regulators such as the Hong Kong Exchanges and Clearing Limited (HKEx) and the Mandatory Provident Fund Schemes Authority (MPFA) and in a number of statutory bodies like the Airport Authority, Kowloon-Canton Railway Corporation (KCRC) and the Mass Transit Railway Corporation Limited (MTRCL). Regulatory bodies in U.K.<sup>2</sup>, Sweden and Singapore have also implemented the split model for better governance.</p> <p>As a principal market regulator of the financial services sector, the SFC should set exemplary standard for others to follow.</p>
3. Isn't there already a separation of roles between Chairman and Chief Operating Officer (COO) ?	<p>The division of labour between Chairman and COO is division of work and duties in the same executive arm, <b><u>not</u></b> separation of roles between executive and non-executive.</p> <p>To strengthen internal governance and enhance the internal checks and balances of the SFC, it is proposed that the role of the Chairman should be separated from the executive arm. This will create conditions for enhancing the independence of the Board and hence its ability to discharge its supervisory functions over the executive arm.</p>

<sup>2</sup> There have been queries from Mr David Webb that the splitting model of U.K. Financial Services Authority (FSA) is an executive Chairman plus CEO. The Government has obtained written clarification from the U.K. FSA that the Chairman does not have any executive responsibilities.

Issue	The Government's view / policy intention
<p>4. Is it the Chairman or the CEO who should bear the ultimate accountability for the Commission ?</p>	<p>In his speech to the Bills Committee on 19 May 2005, the Chairman of the SFC said that -</p> <p><i>"The current law is very clear on who is the ultimate fully accountable face and head of the Commission. The Chairman is a full-time executive director of the Commission, ultimately responsible for the affairs of the Commission."</i></p> <p>The Government wishes to clarify that the SFO does not have any express provision stipulating to the effect that the Chairman is the ultimate accountable person of the Commission. In accordance with the SFO, it is the responsibility of the Commission to perform the statutory duties, functions and exercise the statutory powers of the Commission. <b>As a general principle, the Commission (i.e. the SFC Board) is therefore <u>ultimately accountable / responsible</u> for the performance of the Commission under the SFO.</b> This general principle would continue to apply under the splitting proposal.</p> <p>Notwithstanding the above general principle, according to section 10 of the SFO, save for the non-delegable functions specified in Part 2 of Schedule 2 of SFO, the Board may delegate any of its functions to any member, staff or committee established by the SFC. It is the understanding of the Government that, <u>at present</u>, save for the non-delegable functions specified in Part 2 of Schedule 2 of SFO, <u>the SFC Board has delegated almost all of its powers and functions</u> to the relevant committees established by the SFC or to the Executive Directors (EDs). Each ED is further authorized to sub-delegate such functions and powers to any Committee or employee of the Commission. As such, for powers and functions that have been delegated to</p>

Issue	The Government's view / policy intention
	<p>the executive arm, it is reasonable for the respective EDs to assume responsibility and for the incumbent executive Chairman, who is the head of the EDs, to bear the overall responsibility.</p> <p>Under the splitting proposal, <u>the CEO, instead of the Chairman, will be the head of the executive and responsible for supervising the work of EDs and overseeing the day-to-day regulatory work of the Commission.</u> As such, under the splitting proposal, the CEO should be accountable for all operational matters. As for the Chairman, he/she should be accountable for setting the overall directions, policies, agendas, strategies and priorities of the Commission. In the cases of non-delegable functions as well as those powers and functions which the Board has not delegated but reserved for the Board to consider, decide and carry out collectively, the Board will continue to be collectively accountable.</p>
<p>5. Who is the public face of the Commission ?</p>	<p>It is not meaningful to stipulate who is the public face of the SFC. At present, in addition to the Chairman, individual EDs may also represent the Commission publicly to speak on their respective subject areas.</p> <p>Notwithstanding the above, as a general guideline, the Chairman under the splitting proposal would be the public face for the overall direction, policies and strategies of the Commission while the CEO, to be supported by other EDs, would be the public face for the operational matters of the Commission. This type of division of labour in PR matters is very common in other statutory bodies like HKEx, MPFA, Airport Authority, MTRCL and KCRC, etc.</p>

(b) **Delineation of Roles and Responsibilities between Chairman and CEO**

Issue	The Government's view / policy intention
6. Is it possible to delineate the roles and responsibilities between Chairman and CEO	It is certainly feasible to delineate the roles and responsibilities between Chairman and CEO. The Government has already set out the broad principles governing the division of roles and responsibilities between the future Chairman and CEO (Annex A). Those broad principles were drawn up with reference to the proposals of the Hong Kong Institute of Certified Public Accountants and the actual division of responsibilities in the U.K. FSA.
7. Should the division of roles and responsibilities be set out in the legislation ?	<p>We note that the Chairman of the SFC supports that the division of roles and responsibilities between the future Chairman and CEO should be set out in the legislation. The Government holds a different view.</p> <p>As mentioned in the Government's letter to the SFC dated 7 June 2005, the Government is of the view that the details of <u>the division of responsibilities between two key members, i.e. Chairman and CEO, is an important matter for the SFC Board to consider and stipulate</u>. We do not consider that such details should be stipulated in the SFO. Our reasons are detailed as follows :</p> <ul style="list-style-type: none"> <li>• The current provisions in the SFO do <b>not</b> stipulate the duties and division of responsibilities between Chairman, EDs and Non-Executive Directors (NEDs) of the Commission. The division of responsibilities within the Commission is not statutory but is implemented by administrative means which has worked very well for over 16 years since the establishment of the SFC in 1989. We are not aware of any circumstances or evidence suggesting that the current administrative division of work cannot succeed in the division of responsibilities between the future Chairman and CEO.</li> </ul>

Issue	The Government's view / policy intention
	<ul style="list-style-type: none"> <li>• In the local experiences we made reference to, such as the MPFA, Airport Authority, MTRCL and KCRC, etc., the detailed division of responsibilities of their Chairmen, members or directors are also not prescribed in the relevant legislation but decided by their respective Board of Directors and implemented by administrative means. Such administrative division of work has proven effective and successful.</li> <li>• In the overseas experience we made reference to, the division of responsibilities between Chairman and CEO of the U.K. FSA is also not laid down in the Financial Services and Market Act but only set out in the FSA's Annual Report.</li> <li>• Duties and responsibilities would evolve over time and it is prudent to provide flexibility to the SFC Board to fine-tune and adjust the duties and relationship between Chairman and CEO; executive and non-executive directors, in order to suit the operational needs of the Commission in accordance with its statutory objectives, functions, powers and duties.</li> </ul>
<p>8. If there are no explicit provisions in the SFO, how to ensure clear division of roles and responsibilities ?</p>	<p>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 roles and 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.</p>



(c) **Implementation issues**

Issue	The Government's view / policy intention
<p>9. What should be the future arrangements governing the division of work ?</p>	<p>We invite the SFC Board, basing on the broad principles set out at Annex, to draw up the details of the division of responsibilities between the future Chairman and CEO and arrangements governing the division of work between the two as well as the arrangements governing the division of work between Chairman, EDs and NEDs. The Board may wish to refer to the broad principles at <u>Annex A</u> and draw reference from the existing arrangements (<u>Annex B</u>).</p> <p>Under the splitting proposal, the role of the future Chairman will, in-principle, be non-executive. As such, the executive management and regulatory functions of the current Chairman will be transferred to the CEO. As the Board will no longer be led by an executive Chairman, we expect the independence of the Board will be strengthened. We also expect NEDs to play a more active role in the Board after the split.</p>
<p>10. Will there be difficulties for the future Chairman to discharge his/her responsibilities without hands-on understanding of the day-to-day operation of the SFC ?</p>	<p>The Chairman is not expected to be involved in the day-to-day operational and regulatory work. Notwithstanding this principle, as part of the Commission, the future Chairman and NEDs alike, are required to discharge their statutory functions under the SFO, including the non-delegable functions. Where there are matters or decisions of which the responsibilities are vested with the full Commission (i.e. the SFC Board), it will be the responsibility of the executive arm to be led by the CEO to handle the administrative side of the task and to brief the SFC Board so that Members of the Board may exercise their powers / functions / discretion properly and efficiently, as at present.</p>

Issue	The Government's view / policy intention
	<p>As set out in the broad principles of the responsibilities of the CEO, the CEO is also expected to inform and consult the Chairman and the Board on matters of significance to the SFC.</p> <p>As evident in the local and overseas examples we made reference to, a non-executive chairman can successfully lead and develop the regulatory body without being involved in the day-to-day regulatory work.</p>
<p>11. Should the future Chairman have access to information on individual cases under investigation ?</p>	<p>Under the splitting proposal, the Chairman is non-executive in-principle and would not be involved in the day-to-day operational and regulatory details. As such, as a general principle, the Chairman is not expected to be involved in or request for regulatory details of individual cases. The Board may, however, request a briefing by or information from the executive management on individual cases.</p> <p>In addition, should an individual case is considered to be <u>of significance to the Commission or in the interest of the public</u>, the CEO is expected to take a proactive approach to inform the Board of the case. If an individual case under investigation <u>has become public or has already attracted wide media and public interest</u>, the CEO is also expected to inform the Board of the case.</p> <p>As far as the Government understands, the current executive Chairman is not involved in the regulatory details of individual cases under investigation. We also understand that the SFC Board also does not receive regular report on the executive management's enforcement work. The Board is only briefed on cases considered to be of public and/or media interest, and cases considered to be of significance to the Commission. The Board may wish to review whether the current reporting is adequate.</p>

(d) Avoidance of Conflict of Interests

Issue	The Government's view / policy intention
12. What are the safeguards to avoid conflict of interests ?	<p>The Administration attaches great importance to the independence of Chairman and indeed all members and staff of the SFC from any conflict of interests.</p> <p>Firstly, there are <u>statutory</u> safeguards in place to govern the preservation of secrecy (section 378, SFO) and avoidance of conflict of interests (section 379, SFO) of all members and staff of the SFC. The legal requirements in the Prevention of Bribery Ordinance are also applicable to all members (including Chairman, EDs and NEDs) and staff of the SFC.</p> <p>Secondly, the SFC's internal Code of Conduct which sets out the requirements on confidentiality, conflict of interests, personal investments and prevention of bribery, is binding on all members and staff of the SFC and shall continue to apply to the non-executive Chairman under the splitting proposal.</p> <p>Thirdly, in response to high public expectation on the independence of the SFC Chairman, we have proposed <u>additional requirements</u> for the future Chairman to comply :</p> <ul style="list-style-type: none"> <li>(i) He/she should not be a director in any listed company in Hong Kong;</li> <li>(ii) He/she should not have any material interest in any principal business activity or involved in any material business dealing with a listed company or any person or institution engaged in activities regulated by the SFC.</li> </ul> <p>The above requirements will be included in the terms of appointment of the future Chairman. The prospective Chairman will be required to agree to comply with these requirements before his / her appointment takes effect.</p>

Issue	The Government's view / policy intention
13. Should the Chairman avoid any contact with the stakeholders of the industry ?	<p>There have been comments from some individuals that the Chairman of the SFC should avoid contact with the stakeholders of the industry.</p> <p>As the head of the Commission, the Government considers that it is not reasonable or practical for the Chairman to refuse any contact with the personnel of the stakeholders of the industry, e.g. listed companies, banks, stockbrokers and other intermediaries, etc. as the Chairman cannot operate in a vacuum. He/she must keep abreast of the market development and liaise with the industry to gauge their views on the work of the SFC for the purpose of setting the agendas, policies and priorities of the Commission.</p> <p>We consider the statutory, administrative and contractual measures mentioned above in respect of ensuring the independence of Chairman and avoidance of conflict of interests adequate and effective.</p>

**(d) Acting Arrangement**

Issue	The Government's view / policy intention
14. What will be the acting arrangement for Chairman ?	<p>Under the current provisions of the SFO (see Part 1 of Schedule 2 of SFO), the Chief Executive may appoint an ED to be the Deputy Chairman of the Commission (section 4). If the Chairman is unable to act due to illness, absence from Hong Kong or any other cause -</p> <ol style="list-style-type: none"> <li>1. The Deputy Chairman shall act as Chairman (section 5);</li> <li>2. If no Deputy Chairman has been appointed or the Deputy Chairman is unable to act due to illness, absence from Hong Kong or any other cause, the Financial Secretary may designate an ED to act as Chairman (section 7);</li> <li>3. If the Financial Secretary has not made a designation</li> </ol>

Issue	The Government's view / policy intention
	<p>under section 7, the Chairman may designate an ED to act as Chairman (section 6).</p> <p>Under the Securities and Futures (Amendment) Bill 2005, the provisions in Part 1 of Schedule 2 of SFO will be amended to the effect that the Chief Executive may appoint an ED <b><u>or NED</u></b> to be the Deputy Chairman of the Commission. If the Chairman is unable to act due to illness, absence from Hong Kong or any other cause -</p> <ol style="list-style-type: none"> <li>1. The Deputy Chairman shall act as Chairman;</li> <li>2. If no Deputy Chairman has been appointed or the Deputy Chairman is unable to act due to illness, absence from Hong Kong or any other cause, the Financial Secretary may designate an ED <b><u>or NED</u></b> to act as Chairman;</li> <li>3. If the Financial Secretary has not made a designation under section 7, the Chairman may designate an ED <b><u>or NED</u></b> to act as Chairman.</li> </ol> <p>If the Chairman is unable to act for a short period of time, our policy thinking is for the CEO to act as Chairman.</p>
15. What will be the acting arrangement for CEO ?	<p>If the CEO is unable to act for a short period of time due to vacation leave or duty visit, his duties will be shared <u>administratively</u> by other EDs or SFC colleagues as appropriate, as in the present case of other EDs who are unable to act. If the CEO is unable to act for a relatively long period of time due to illness, absence from Hong Kong or any other cause, the Government shall arrange for another ED to be appointed as CEO by the Chief Executive under clause 3(e) of the Bill, until such time the CEO can return to office. If the CEO post has become vacant due to resignation, expiry of contract, death, etc., again, the Government shall arrange for another ED to be appointed as CEO by the Chief Executive under clause 3(e) of the Bill, until such time a new CEO is recruited.</p>

Issue	The Government's view / policy intention
	<p>The Government considers it not necessary to provide "statutory" contingency arrangements in the Bill in the event that the CEO post is vacant or the CEO is unable to act. This is in line with the practice of other local statutory bodies we made reference to.</p>
<p>16. Should the safeguards mentioned in item 12 above be applicable to the acting Chairman ?</p>	<p>The <u>statutory</u> safeguards in the SFO, the legal requirements in the Prevention of Bribery Ordinance as well as the <u>SFC's internal Code of Conduct</u> are applicable to all members (including Chairman, EDs and NEDs) and staff of the SFC. They will therefore be applicable to the acting Chairman, who shall be an ED or NED.</p> <p>Having regard to the temporary nature of an acting arrangement for Chairman, we do not consider the <u>additional requirements</u> tailored for Chairman need to be applied to acting Chairman.</p>

(f) Other issues

Issue	The Government's view
<p>17. Impact of the splitting proposal on the standing of Hong Kong in IOSCO.</p>	<p>We note the concern of the incumbent Chairman that the splitting proposal may affect the standing of Hong Kong in IOSCO. In this connection, the Board may wish to note that the Secretary General of IOSCO has indicated clearly in his reply to the Government on 12 January 2005 that the appointment of the IOSCO Technical Committee Chairman is a personal appointment based on the recognized experience and authority of the appointee.</p> <p>Ms Jane Diplock, Chairman of IOSCO's Executive Committee, has also mentioned in her letter to Bills Committee that "the role of Chairman of the Technical</p>

Issue	The Government's view
	<p>Committee is not structurally mandated and as the Secretary General has remarked, the IOSCO principles are sufficiently broad to be adapted to domestic contexts and to provide some flexibility with respect to the governance structures of securities regulators. As such there would be no bar to participation in IOSCO by a non-Executive Chairman”.</p> <p>With these assurances, the Administration does not consider the splitting proposal would have an impact on the standing of the Hong Kong SFC at IOSCO.</p> <p>Based on information gathered from the website of IOSCO, representatives at various committees / sub-committees of IOSCO include chairmen, vice-chairmen, secretary-generals, executive directors, chief executive officers, managing directors and directors, etc. of the securities regulators. This illustrates that participation and chairmanship at the committees and sub-committees of IOSCO are not restricted to executive chairman of a securities regulator.</p>

Financial Services Branch

Financial Services and the Treasury Bureau

June 2005

**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 Board;
  - (b) lead the Board as a team;
  - (c) plan and manage the Board'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 Board in a timely manner, that the Board 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.



## **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 Board, and facilitate the effective functioning of the Board. The key responsibilities include -

- (a) reporting to the Board regularly with appropriate, timely and quality information;
- (b) informing and consulting the chairman and the Board on all matters of significance to the SFC;
- (c) developing and delivering the strategic objectives agreed with the Board; 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.

Extract of information provided by the Securities and Futures Commission (SFC)  
to the Bills Committee on Securities and Futures (Amendment) Bill 2005

(Extract of Annex A to LC Paper No. CB(1)1537/04-05(04))

Question 1(b):

*The existing arrangements governing the division of roles and responsibilities  
between the executive and non-executive directors of the SFC*

1. The Board of the SFC at present comprises eleven members: four full time Executive Directors (EDs) (including the Chairman and will be increased to five later this month) and seven Non-Executive Directors (NEDs). As required by the SFO, the majority of the Board members (Members) must be NEDs. All Members are appointed by the HKSAR Chief Executive.
2. All important policies are discussed and approved by the Board, which meets regularly every month and holds additional meetings as necessary. Divisional staff attend Board meetings to explain policy proposals, report on important operational matters and regulatory issues. Members are briefed on the financial position of the SFC and provided with monthly financial statements.
3. To play an effective oversight role, the Board has delegated most of the regulatory powers and functions to the individual EDs or Committees, with power to sub-delegate to staff within their respective operational divisions. Non-delegable and other key powers are retained at Board level.
4. Each of the Audit Committee, Remuneration Committee and Budget Committee is chaired by a NED. Apart from the Budget Committee (which has three ED members), all members of the Audit Committee and Remuneration Committee are NEDs. So far as the Audit Committee and Remuneration Committee are concerned, whilst certain senior SFC staff are invited to attend these Committee meetings, they have no voting rights in respect of decisions to be made by the Committees.

Division of roles and responsibilities between the EDs and NEDs

(I) EDs

5. Each ED assumes full management responsibility for his or her Division. This responsibility includes:
  - a) exercising statutory powers as delegated under the SFO or where appropriate making recommendations to the Board regarding the exercise of statutory powers;
  - b) establishing procedures which ensure that SFC powers are exercised properly and judiciously, bearing in mind the legal responsibilities of SFC;

- c) leading policy development and formulation in relation to respective functions of the Divisions with regard to international standards and experience of overseas regulatory bodies;
- d) participating in general policy formulation and collective decision-making as members of the Board;
- e) liaising with relevant Government Departments, local agencies, appropriate market organisations and participants as well as overseas financial and regulatory bodies; and
- f) managing the Divisions including leading, motivating and training staff and developing succession plans.

**(II) Chairman**

- 6. The SFO expressly provides that the following functions are to be performed by the SFC Chairman:
  - a) to be the channel for consultation by the Chief Executive (CE) when the CE is contemplating issuing directions to the SFC under section 11, SFO;
  - b) to sign financial statements of the SFC under section 15 and of the Investors Compensation Fund under section 240, SFO;
  - c) to designate an ED as acting chairman under section 6 of Part 1 of Schedule 2, SFO;
  - d) to preside at Board meetings and exercise a casting vote under sections 15 and 19 of Part 1 of Schedule 2, SFO;
  - e) to authorise affixing of the seal under section 25 of Part 1 of Schedule 2, SFO; and
  - f) to convene and chair meetings of the Advisory Committee under sections 27-29 of Part 1 of Schedule 2, SFO.
- 7. Apart from these express statutory functions, the current SFC Chairman also has the following roles and responsibilities.
- 8. The current Chairman is the public face of the SFC, accountable for the SFC's policy and regulatory decisions. He is responsible for:
  - a) providing leadership to the Board and the management;
  - b) ensuring that Members of the SFC are fully briefed on matters to be discussed at Board meetings and that key issues are discussed by the Board in a timely manner, that the Board has adequate support and is provided with all the necessary information on which to base decisions;
  - c) giving all Members an opportunity to express their views at Board meetings, encouraging all Members to contribute fully to the Board's affairs. In addition to Board meetings, the Chairman also telephones or meets with NEDs regularly to consult them on various corporate governance and important issues;
  - d) overseeing the implementation of the Board's strategies and decisions;
  - e) ensuring that procedures are in place so that all due process, checks and balances are followed in the performance of the SFC's functions;
  - f) evaluating performance of EDs' and senior management and discussing these with the NEDs;
  - g) ensuring proper control of and effective use of financial resources;

- h) advising and reporting to the Financial Secretary and Secretary for Financial Services and the Treasury on matters relating to the securities and futures industry; and
  - i) ensuring that the SFC communicates effectively with the Administration, Legislative Council, the investors, the public and the industry.
9. The current SFC Chairman is also actively involved in cross-border and international work. He is presently the Chairman of the Technical Committee of IOSCO, the international organization of securities commissions, which is a standard-setting body. The Chairman is responsible for:
- a) meeting with international financial institutions and foreign visitors to brief them on Hong Kong and relevant international financial issues ;
  - b) engaging in dialogue with the international financial sector to maintain Hong Kong's participation at the top level in international consultations on financial issues;
  - c) contributing to the development of international standards/policies in the financial industry in particular the securities and futures industry;
  - d) ensuring that Hong Kong's standards are on a par with international standards;
  - e) developing cooperative arrangements with other jurisdictions;
  - g) attending important international conferences for the benefit of the HKSAR and SFC; and
  - h) engaging the Mainland regulatory organizations, exchanges and policy makers on cross-border issues of mutual interest.

**(III) NEDs**

10. NEDs are independent of the management and play the role of supervising the SFC's executive functions. Their responsibilities include:
- a) participating in Board meetings to bring their independent judgment to issues of strategy, policy, performance, accountability, resources etc.
  - b) promoting critical review and control of the management process;
  - c) taking the lead where potential conflicts of interest arise (e.g. audit report on anonymous complaint letters)
  - d) leading and serving on the SFC's Audit Committee, Budget Committee and Remuneration Committee (the Audit Committee and Remuneration Committee only comprise NEDs);
  - e) giving the Board and any Committees on which they serve the benefit of their skills, expertise and varied backgrounds and qualifications through regular attendance and active participation;
  - f) bringing a wide range of business and financial experience to the Board which contributes to the effective direction of the Commission; and
  - g) positively contributing to the development of the SFC's strategy and policies, scrutinising the SFC's performance in achieving agreed corporate goals and objectives, and monitoring the reporting of performance.