

Process Review Panel for the Securities and Futures Commission Annual Report to the Financial Secretary for 2003

Executive Summary

Introduction

The third Annual Report of the Process Review Panel (“PRP”) covers the work of the PRP from 1 January 2003 to 31 December 2003.

Background and Terms of Reference of the PRP

2. The PRP is an independent, non-statutory panel established by the Chief Executive in November 2000 to review the internal operational procedures of the Securities and Futures Commission (“SFC”) and to determine whether the SFC has followed its internal procedures.

3. Under its Terms of Reference, the PRP may review files of the SFC to verify that the action taken and decisions made in relation to any specific completed case adhere to and are consistent with the relevant internal procedures and operational guidelines. The PRP is required to submit its reports to the Financial Secretary annually or otherwise on a need basis.

Constitution of the PRP

4. The PRP, chaired by Mr. Vincent Hoi Chuen Cheng, JP, currently comprises eleven members, including eight members from the financial sector, academia and the legal and accountancy professions, and three ex-officio members including the Chairman of the SFC, a Non-Executive Director of the SFC and a representative of the Secretary for Justice.

Work of the PRP in 2003

5. In 2003, the PRP reviewed completed cases and/or procedures of the SFC in the following areas –

- (a) registration of intermediaries;
- (b) registration and supervision of Registered Institutions (“RIs”);
- (c) performance pledges for processing applications for licence under the new licensing regime;

- (d) rationalisation of registration procedures of the SFC and the Stock Exchange of Hong Kong (“SEHK”);
- (e) inspection of and prudential visit to intermediaries;
- (f) appointment of auditor under Section 160 of the Securities and Futures Ordinance (“SFO”);
- (g) authorization of collective investment schemes;
- (h) handling of complaints against intermediaries;
- (i) investigation and disciplinary action;
- (j) processing of listing applications under the Dual Filing regime;
- (k) approval of Approved Lending Agents (“ALAs”);
- (l) handling of takeovers and mergers transactions;
- (m) standardised procedures on issue of interim replies to complainants and target date for completion of investigation of complaints;
- (n) disclosure of information on investigation of complaints;
- (o) mechanism for internal communication among the SFC’s divisions and departments; and
- (p) revised internal procedures on public consultations.

6. The PRP concluded that the SFC had generally followed its internal procedures in handling cases and there was no serious deficiency in the SFC’s operational processes. The PRP also made a number of recommendations for improvement. The SFC has been positive in adopting recommendations from the PRP. Where the SFC could not adopt a recommendation, detailed explanations were given.

Engagement with the industry

7. The PRP attaches great importance to views from users of the market on issues within its terms of reference. The PRP maintained a dialogue with the industry to listen to their views on the SFC’s procedures and suggestions for improvement.

Observations and recommendations

8. The observations and recommendations made by the PRP are summarised below.

(1) Observations and recommendations that have been accepted by the SFC

(A) Registration of intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(1)	The SFC spent almost three months to study an application for a licence before asking the applicant to provide further information.	The SFC should expedite the processing of future applications as far as possible	The SFC would endeavour to expedite the processing of licence applications as far as practicable.
(2)	The industry associations suggested that the SFC speed up the processing of licensing applications so as to meet its performance pledges.	The PRP invited the SFC to comment on the suggestion.	In 2003, the majority of cases were completed within the pledged time frames. The SFC would continue to comply with the performance pledges as far as possible.
(3)	The industry associations suggested that the refund of deposit to a dealing director of non-Exchange participants when he ceased to be a dealing director should be made as early as possible.	The SFC should be invited to respond to the suggestion.	Refund of deposit cases had normally been dealt with reasonably promptly. The SFC would ensure that refunding cases are processed expeditiously.
(4)	The industry associations noted that some employers sometimes required their representatives to be licensed for more regulated activities than is necessary. They suggested that the SFC further improve the knowledge of market practitioners on the licensing requirements.	The PRP invited the SFC to comment on the suggestion.	The SFC issued a circular to licensed corporations on 27 January 2004 reminding them that their representatives are only required to be licensed for those regulated activities that they carry on.

(B) Performance pledges for processing applications for licence under the new licensing regime

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(5)	The PRP noted the SFC's revised performance pledges on processing applications for licences under the new licensing regime.	There was improvement in the revised performance pledges as the processing time for applications for licences had been shortened.	N.A.

(C) Rationalisation of registration procedures of the SFC and the SEHK

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(6)	With effect from April 2003, the SEHK abolished the registration system for the "sale representatives" of its Exchange Participants. Moreover, the "dealing directors" of Exchange Participants' who applied to the SEHK for registration are no longer required to submit information which duplicated those submitted to the SFC.	The new arrangement was an improvement in the registration procedures of the SFC and the SEHK.	N.A.

(D) Registration of RIs

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(7)	There was slippage in acknowledging receipt of an application for registration as a RI by the SFC.	The SFC should endeavour to observe its performance pledge of acknowledging receipt of an application for registration as a RI within two business days.	The SFC agreed to the recommendation.
(8)	The internal procedures and the Memorandum of Understanding ("MoU") signed between the SFC and the Hong Kong Monetary Authority ("HKMA") set out the requirement that the SFC should pass a copy of application to the HKMA within two business days of receiving it. In two cases, the SFC did not meet the requirement.	The SFC should observe, as far as possible, the specified time frame for passing a copy of application to the HKMA and should review the reasonableness of the time frame.	The SFC agreed to the recommendations and revised the time frame to seven business days on 1 March 2004 in consultation with the HKMA.
(9)	In one case, the SFC did not record the details of a verbal request made to an applicant for provision of additional information.	The SFC should record the details of any verbal request made to an applicant for provision of information.	The SFC agreed to the recommendation.

(E) Inspection of intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(10)	The industry associations suggested that the SFC should speed up the issue of the letter of deficiencies, which summarises the result of an inspection, after completion of the inspection fieldwork.	The PRP invited the SFC to respond to the comment of the industry associations.	The SFC had taken steps to shorten the time for completing an inspection and issuing the letter of deficiencies. With effect from 1 April 2004, the SFC had designated a larger pool of staff to conduct inspections. The SFC would issue an interim letter of deficiencies when a substantive one cannot be issued within four months of completion of the inspection fieldwork.

(F) Prudential visit to intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(11)	The SFC had introduced prudential visit to intermediaries in 2001/02 to improve communication with them.	The SFC should follow up the result of a visit with the intermediary with a letter setting out the SFC's recommendations, if any.	The SFC would continue to issue a letter to an intermediary on any significant matters noted during a visit. With effect from 1 August 2003, if no significant matter was noted during a visit, a "thank you" letter would be sent to the intermediary to express appreciation for its cooperation.

(G) Appointment of auditors under Section 160 of the SFO

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(12)	The SFC was empowered to order a person who made an application under Section 160 of the SFO for an audit of the records of a company to bear, wholly or partly, the cost of the audit. The applicant might have difficulties in bearing the cost or might find it unreasonable for him to bear the cost.	Before an auditor is appointed, the SFC should inform the applicant the possibility that he would be required to bear the cost of the audit. The SFC should exercise great care in doing so as the applicant might take it negatively as a threat against his making of an application.	The SFC would include a copy of the provisions of Section 160 of the SFO which covers, among other things, the SFC's power of apportionment of cost in the acknowledgment letter that the SFC sent to the applicant upon receiving his application so as to ensure the applicant's awareness of the SFC's power in that regard.

(H) Authorisation of collective investment schemes

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(13)	Change in the rank of the SFC officer who are authorised to grant authorisation of investment products was not reflected in the operation manuals of the Investment Products Department ("IPD").	The SFC should update the operation manuals of the IPD to reflect the change.	The SFC agreed to the recommendation.

(I) Complaints against intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(14)	In a complaint case, the SFC did not address one of the allegations made by the complainant.	The SFC should properly document the reason for not taking action on an allegation.	The SFC agreed to the recommendation.
(15)	In a complaint case concerning the selling of an unauthorised investment plan which was claimed to be supervised by an overseas securities regulator, it appeared that the SFC had relied on the complainant for evidence and had not approached the overseas securities regulator or the company which was alleged of selling the plan for information.	The SFC should consider taking a more proactive approach in protecting the interests of investors.	The SFC had taken the initiative to revisit the case and had written to the investment company, which the subject company in Hong Kong had claimed was its overseas principal, asking it to respond to the complaint that its agent was selling unauthorised products in Hong Kong.

(J) Standardised procedures on issue of interim replies to complainants and target date for completion of investigation of complaint

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(16)	Not all the operation divisions/departments of the SFC would periodically update complainants on the progress of the complaints.	The SFC should issue interim replies to complainants if the complaints could not be concluded within a reasonable period of time and should set a target date for issue of substantive replies to complainants.	The SFC adopted a standardised procedure on issue of interim replies to complainants since August 2003 and set a target date for completion of investigation of complaints.

(K) Investigation and disciplinary action

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(17)	In an investigation case concerning repeated offences, the SFC had not proceeded to prosecute or imposed more severe sanctions due to insufficient evidence.	The SFC should consider taking extra steps in the investigation of serious or repeated offences with a view to obtaining sufficient evidence for prosecution or imposition of more severe sanctions to achieve a deterrent effect.	The SFC took a very serious view of repeated offences and would impose severe penalties if the evidence supported it. In the particular case, the trades took place outside Hong Kong. It was difficult if not impossible to obtain the required evidence even if extra staff were assigned to pursue the case.
(18)	Upon completion of an investigation, the SFC issued a letter to those persons under investigation who would not be prosecuted by the SFC to inform them that the investigation had been concluded and no further action would be taken against them.	The PRP expressed appreciation of this good practice.	N.A.
(19)	The Intermediaries Supervision Department ("ISD") discovered shortselling activities during a routine inspection of an intermediary. Despite that prosecution of shortselling activities was subject to a time limit of twelve months under the Securities Ordinance, the ISD referred the case to the Enforcement Division for further investigation nine months later.	The ISD should endeavour to refer suspected short selling activities to other relevant SFC departments for follow-up action within a reasonable period of time.	Before referring any case to the Enforcement Division, the ISD was obliged to conduct pre-vetting to avoid premature referral. The case concerned was an exception with extenuating circumstances. The ISD would ensure that future referrals would be made within a reasonable period of time that did not put the chance of prosecution at any risk.
(20)	The industry associations suggested that the SFC improve the knowledge of the market practitioners on the nature and classification of formal disciplinary action and its distinction from warning letters given the difficulties faced by some recipients of warning letters in job seeking.	The PRP invited the SFC to respond to the suggestion.	A warning letter was not a formal disciplinary action and should not bar a person from working in the industry. An explanation to this effect was published in the SFC Alert (Sept/Oct 2003 issue). The SFC also posted two "Frequently Asked Questions" onto its website on 4 February 2004 to clarify this matter.

(L) Disclosure of information on investigation of complaints

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(21)	The industry associations suggested that the SFC should inform the management of a company of complaints lodged against the company and the identity of their staff being investigated by the SFC so that the management could take immediate remedial action if necessary.	The PRP invited the SFC to consider the suggestion.	The SFC has revised its internal procedures to allow disclosure to be made in exceptional circumstances.

(M) Processing of listing applications under the Dual Filing regime

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(22)	The Dual Filing Team of the SFC might "select" a particular listing application for review for a number of reasons including referrals from other parts of the SFC, complaints received, press articles, intelligence, market trends, known risk areas or random selection.	The SFC should consider publishing such selection criteria for better transparency.	The SFC agreed to the suggestion and would continue to achieve transparency in the work of the Dual Filing regime by issuing periodic updates on the regime, holding press briefings, and participating in industry sharing sessions.
(23)	A preliminary review on all listing applications might be essential before the SFC decided which applications should be selected for detailed study.	The SFC should consider conducting a preliminary review on all listing applications.	Since the introduction of the Dual Filing regime, the SFC had been undertaking a preliminary review on all listing applications before deciding whether to comment on any application. The SFC's Shareholders' Group and Dual Filing Advisory Group had also agreed to the PRP's view but had raised concerns regarding the resource issues. The SFC would keep this issue under review.
(24)	The Dual Filing Team might object to a new listing application that has a "material deficiency".	The SFC should consider publishing a database of "material deficiencies" of listing applications to which the SFC has objected for better transparency.	The SFC agreed to the recommendation. The SFC had been describing and explaining the deficiencies in its periodic updates and press briefings and would continue with this practice.

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(25)	As the Dual Filing regime had already been implemented for several months, the market should be able to provide comment on the operation of the Dual Filing process.	The SFC should establish a regular dialogue with the industry on the operation of the Dual Filing regime.	Since commencement of the Dual Filing regime, the SFC had been submitting reports to the SFC Advisory Committee, the Shareholders' Group, and the Dual Filing Advisory Group, providing periodic updates to the public, and participating in sharing sessions with industry practitioners. The SFC would continue to look for such opportunities for communication with the market.
(26)	A Director of the Corporate Finance Division of the SFC was responsible for monitoring the giving of comments on or raising no objection to listing applications. The role of the Director was not clearly stated in the SFC's internal procedures.	The SFC should set out clearly the role of the Director in its internal procedures.	The SFC agreed to the recommendation.
(27)	In three new listing application cases, there was delay in the SFC receiving documents relating to the applications. Such delay might jeopardise the SFC's ability to follow the ten-day time frame stipulated in the Securities and Futures (Stock Market Listing) Rules for it to require the applicant to supply further information or to object to the listing application.	The SFC should liaise with the Hong Kong Exchanges and Clearing Limited ("HKEx") to ensure that the SFC would receive listing applications and related documents promptly.	The SFC had further liaised with the HKEx and reached an agreement with the HKEx that listing applications and related documents should be passed to the SFC within the ten-day time frame.
(28)	In two cases where the SFC indicated to the HKEx its intention to object to the listing applications, the SFC's case files did not contain records on the endorsement of the Executive Director ("ED") to object to the applications.	The SFC should properly document the ED's endorsement in the case file.	The SFC agreed to the recommendation.

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(29)	In two cases, the letters issued by the SFC to the HKEx indicating its intention to object to the listing applications did not specify the reasons for the intended objection.	The SFC should set out the reasons for its intention to object to a listing application in its letter to the HKEx.	The SFC agreed to the recommendation.
(30)	The practice of consulting the Dual Filing Advisory Group on every listing application to which the SFC intends to object was not stated in the SFC's internal procedures.	The practice should be set out in the internal procedures of the SFC.	The SFC agreed to the recommendation.

(N) Approval of ALAs

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(31)	In the absence of applications for approval as ALAs and with insufficient time for processing such applications before commencement of the SFO on 1 April 2003, the SFC adopted an interim arrangement in late March 2003 whereby temporary approval was granted to applications submitted before April 2003.	The interim arrangement was considered reasonable as it aimed at preventing a possible disruption to the securities borrowing and lending market, which might be caused by a sudden large-scale withdrawal of securities from the market triggered off by the absence of ALAs in the market.	N.A.

(O) Mechanism for internal communication among the SFC's divisions and departments

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(32)	The PRP reviewed the mechanism for internal communication of the SFC.	The PRP noted the mechanism for and improvement in the SFC's internal communication, which include sharing of information through the computer system, regular and ad hoc meetings among and within divisions and forming of multi-disciplinary working groups, etc.	N.A.

(P) Revised procedures on public consultations

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(33)	It was the responsibility of the SFC operation divisions to initiate public consultation exercises while the full Commission had the authority to decide whether and how such exercises were to be conducted. The PRP had recommended in 2002 that such division of responsibility should be clearly specified in the SFC's internal procedures.	The PRP noted the SFC's revised internal procedures on public consultations which set out more clearly the division of responsibility between the operation divisions and the full Commission.	N.A.

(Q) Communication with the industry

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(34)	The industry associations suggested that the SFC explore more channels for communication with small brokerage firms.	The PRP invited the SFC to respond to the suggestion.	There are numerous channels for communication with small brokerage firms. Examples included discussion with industry practitioners prior to issuing public consultations and invitation of representatives from small brokerage firms to working groups. The SFC welcomes suggestions on the communication channels.

(2) Recommendations that have not been accepted by the SFC

(A) Registration of intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(1)	If a licensed person who had left the industry for half a year or more wanted to carry on regulated activities before obtaining a new licence from the SFC, he had to apply for a provisional licence and pay a fee for that on top of the fee for the normal licence. The industry associations suggested that the SFC simplify the relevant licensing procedures which was considered a bit cumbersome.	The PRP invited the SFC to address the concern of the industry associations.	A provisional licence would be granted when the SFC had no reason to cast doubt on the applicant's fitness and properness based on its own information while awaiting confirmation from third parties (such as the Hong Kong Police). The vetting of a re-entrant's application was necessary as the applicant had left the industry for a considerable period of time.

(B) Inspection of intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(2)	The industry associations suggested that the SFC consider giving a performance pledge on the time frame for issuing a letter of deficiencies, which summarises the result of an inspection, after completion of the inspection fieldwork.	The PRP invited the SFC to respond to the suggestion.	It was not practicable for the SFC to pledge any rigid time frame because the cooperation from the intermediaries which affected the inspection process was an uncontrollable factor and the number and complexity of issues arising from an inspection varied among different intermediaries.

(C) Prudential visit to intermediaries

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(3)	After conducting a prudential visit to an intermediary, the inspection team recommended that the intermediary be inspected three years later. However, whether the SFC would inspect the intermediary or would replace the inspection by another prudential visit three years later would depend on the risk level of the intermediary and the availability of inspection resources by that time.	In order to prevent the undesirable situation that an intermediary was only visited but not inspected for a prolonged period of time, the SFC should consider the need of setting a time limit within which at least one routine inspection to an intermediary must be conducted.	It was considered not appropriate to set a time limit for inspecting an intermediary because this might impede the deployment of resources to deal with more risky targets. Such time limit might be mistaken to be the benchmark for a normal inspection cycle, and might set wrong expectations in some intermediaries that they were subject to inspection only at such fixed time intervals. There were sufficient procedural safeguards to ensure an intermediary who was not inspected for a prolonged period was not so treated due to oversight.

(D) Supervision of RIs

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(4)	The Memorandum of Understanding ("MoU") signed between the SFC and the HKMA specified that the HKMA would notify the SFC, as soon as reasonably practicable, of any "designated serious matter" about a RI that the HKMA is aware of.	The SFC should consider the need for discussing with the HKMA to set out a reasonable time frame for the referral of "designated serious matters".	The speed at which it was reasonably practicable for matters designated as "serious matters" to be notified between the parties varies, depending on the nature of the matter and the circumstances in which it arose. As the existing communication and cooperation arrangements had been working well, it was unnecessary to specify any absolute time frame for notification of such matter for the time being.
(5)	The MoU signed between the SFC and the HKMA did not specify a time frame for the referral of complaints about RIs between the two parties.	The SFC should consider the need for discussing with the HKMA to set out reasonable time frames for referral of complaints between the two parties.	The SFC and the HKMA had a basic obligation to refer a complaint to the other party as soon as possible. The promptness of the referral depended on the circumstances of individual cases. As the two parties had been working closely to fulfil their respective obligations, a rigid time frame for referral might not be necessary at this stage.

(E) Authorisation of collective investment schemes

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(6)	In an investigation case concerning a suspected breach of the Protection of Investors Ordinance, the IPD initially advised the Enforcement Division verbally that a piece of promotional material had not been authorised and subsequently confirmed in writing that it had in fact been authorised.	To help further improve the efficiency and accuracy in the search/checking of authorised promotional materials by the SFC, the SFC should consider the feasibility of requiring the issuers to quote a reference number given by the SFC on each authorised promotional material.	The misidentification of an authorised advertisement as unauthorised in this case was an isolated incident, which was highly unlikely to happen again. The SFC considered the implementation of the recommendation not feasible as it might create confusion among the public and would be unduly burdensome for the industry.

(F) Investigation and disciplinary action

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(7)	In an investigation case concerning the issuing of unauthorised advertisements of authorised fund, one of the SFC's considerations when deciding not to further investigate the case was the Magistrates' decisions on similar cases pursued by the SFC in the past.	The SFC should consider whether more objective guidelines on the making of decisions on investigation in connection with unauthorised advertisements should be drawn up.	When making the decision of not further investigating this particular case, the SFC had taken into account the Court's likely sentence in such cases, the fact that the matter was unlikely to pose any significant risk to investors and the evidential difficulties involved in pursuing the case. The facts of each case are always unique and require separate analysis. It was considered not necessary to articulate more objective guidelines on the making of decisions on investigations in connection with unauthorised advertisements.
(8)	In an investigation concerning a suspected breach of the Securities (Disclosure of Interests) Ordinance, there was a long lapse of time between an act of non-disclosure conducted in September 2000 and the receiving of a complaint by the SFC in May 2002 that uncovered such act. The SFC only investigated on those transactions made in 2000.	It was advisable for the SFC to extend the period covered by the inquiry to see if the subject person had committed similar breach after 2000. The SFC should consider setting a longer inquiry period for cases with a long lapse of time between the act of wrongdoing and the uncovering of such act.	It was not feasible for the SFC to adopt the recommendation given its limited resources. In the case concerned, the SFC had decided not to pursue the matter any further other than the issue of a warning on the basis that the amounts involved did not meet the minimum thresholds for taking action in such matters and there were no other unique or special features in this case.

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(9)	In order to allow individual market practitioners and small brokerage firms to have better understanding on their rights and obligations in connection with the SFC's investigations, the industry associations suggested that the SFC consider setting up a special unit to answer enquiries on matters, in particular the rights and obligations of the market practitioners, relating to the SFC's investigations.	The PRP invited the SFC to comment on the suggestion.	Persons who are interviewed by the SFC receive formal advice on the statutory rights and obligation at the outset of all interviews. Moreover, it was considered not appropriate for an enforcement agency like the SFC to provide legal advice to those whose conduct was under the SFC's investigation.

(G) Handling of takeovers and mergers transactions

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(10)	In handling takeovers and mergers transactions, the SFC was heavily involved in the pre-vetting of draft documents submitted by the issuers and plenty of correspondence was exchanged between the SFC and the issuers.	The SFC should consider the feasibility of requiring an issuer to submit a final version of the document for checking whether all the SFC's comments have been properly incorporated before it was issued.	The current vetting procedure was well recognised and accepted by the market and there was little evidence of abuse in the clearance process. Implementation of the recommendation would encourage the market to rely more on the SFC in the drafting of documents and would run counter to the SFC's broader policy objective.

(H) Processing of listing applications under the Dual Filing regime

	<i>Case findings/market views</i>	<i>The PRP's recommendations / observations</i>	<i>Response from the SFC</i>
(11)	The SFC might "select" a particular listing application for review for a number of reasons including referrals from other parts of the SFC, complaints received, press articles, intelligence, market trends, known risk areas or random selection.	The SFC should consider whether more specific criteria should be set out for selection of listing applications for review.	The market trend and types of listing applicants were constantly changing and the disclosure issues in different listing applications varied greatly. It was not possible to set out an exhaustive list of issues.

Way forward

9. Looking ahead, the PRP will review the SFC's internal procedures for the execution of subjects covered by the Memorandum of Understanding governing listing matters between the SFC and the HKEx, including the SFC's regulatory oversight of the HKEx's performance of listing functions and the SFC's performance in administering the Dual Filing regime. The PRP will also review the SFC's internal procedures for the issue of warning letters to intermediaries.