

Process Review Panel for the Securities and Futures Commission 2008-09 Annual Report

Executive Summary

Introduction

The Annual Report of the Process Review Panel (PRP) for the Securities and Futures Commission (SFC) covers the work of the PRP in 2008-09 relating to the review of cases concluded by the SFC in 2007-08.

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 and advise the SFC on the adequacy of the SFC's internal operational procedures governing the actions taken and operational decisions made in the performance of its regulatory functions.

3. To carry out its work, the PRP receives and considers periodic reports from the SFC in respect of the completed or discontinued cases, including complaints against the SFC or its staff. In addition, the PRP may call for, and review, the SFC's files to verify that the actions taken and decisions made in relation to any specific completed case 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. Anthony Chow Wing Kin, comprises eleven members, including eight members from the financial sector, academia, the legal and accountancy professions, a Legislative Councillor and two ex officio members including the Chairman of the SFC and the representative of the Secretary for Justice.

Work of the PRP in 2008-09

5. In 2008-09, the PRP reviewed 55 completed or discontinued cases of the SFC in the following areas –

- (a) licensing of intermediaries;
- (b) inspection of intermediaries;
- (c) authorisation of collective investment schemes;
- (d) handling of complaints;
- (e) investigation and disciplinary action; and
- (f) processing of listing applications under the Dual Filing regime.

6. The PRP concluded that the SFC had generally followed its internal procedures and complied with the operational guidelines in handling these cases.

Recommendations and observations

7. The PRP made a number of recommendations and observations, to which the SFC had responded positively. Improvement measures have been introduced where appropriate. The following is a summary of the key recommendations and observations –

- (a) putting in place a monitoring system to expedite the processing of licence applications (para. 3.3);
- (b) keeping applicants and their employers informed about the progress of licence applications (para. 3.7);
- (c) expediting the conclusion of inspections by engaging additional accounting firms, or agreeing with the appointed firm a pre-set timeframe to conduct a circularisation exercise (para. 3.12);
- (d) strengthening education to investors about the importance of understanding a product for making an informed investment decision (para. 3.17);
- (e) clarifying the process in deciding whether and how an enforcement case should be taken forward (para. 3.21);

- (f) putting in place measures to monitor intermediaries identified to have deficiencies in their internal control system so that an inspection would be carried out at an appropriate time or that the recommendations made by audit firms would be followed up properly (para. 3.35); and
- (g) stepping up supervision of intermediaries to prevent broker misconduct (para. 4.3).

Way forward

8. Looking ahead, the PRP will follow up a number of recommendations made in 2008-09 in relation to the SFC's internal procedures. The areas include the processing of applications for authorisation of collective investment schemes, and the deliberation processes and procedures of the Enforcement Division in deciding whether and how a case should be taken forward.

9. The PRP welcomes and attaches great importance to views from market practitioners as well as the public. The PRP will continue its work on the review of completed or discontinued cases, maintain dialogue with market players, and engage the industry to gauge their views. Suggestions and comments can be referred to the PRP through the following channels –

By post to: Secretariat of the Process Review Panel for the Securities
and Futures Commission
18th Floor, Tower 1, Admiralty Centre
18 Harcourt Road
Admiralty
Hong Kong

By email to: prp@fstb.gov.hk