
CHAPTER 13

CONCLUSIONS

INTRODUCTION

13.1 It has taken a while to get to this part of the report. Here we draw together the strands from the various parts.

CONCLUSIONS

Conclusion No. 1

13.2 There is overwhelming market and public support for the enhancement of the quality of the securities market in Hong Kong. There is a clear consensus that the authorities should work together:-

- (a) to maintain fair, transparent and orderly markets;
- (b) to promote public confidence in the markets;
- (c) to secure the appropriate degree of protection for all investors, but particularly the minority shareholders;
- (d) to minimize market misconduct and to weed out under-performing companies which damage the reputation of the Hong Kong market; and
- (e) to enhance Hong Kong's position as a premier international financial centre.

Conclusion No. 2

13.3 Building on Conclusion No. 1, we believe that there is a consensus that Hong Kong should press ahead with reform measures which seek to achieve those objectives. The Penny Stocks Incident should not be allowed to derail or to slow down the ongoing reforms.

13.4 Reforms are not always painless. The task of initiating and implementing reforms can be onerous especially under unfavourable market conditions.

Conclusion No. 3

13.5 Initiating and implementing reforms involve care, consideration and sensibility on the part of those involved. We have seen that market practitioners and the public at large have expressed a strong wish to be heard. The success of market reforms depends on informed public debates and discussion and consensus building.

Conclusion No. 4

13.6 The Government, the SFC and the HKEx have demonstrated a clear determination to introduce reforms to enhance the quality of the market. There is a keen desire and almost a sense of urgency which have nonetheless to be tempered with moderation and balance. Plautus is reputed to have said that a cause which is rushed is not a just one.

13.7 Not unexpectedly, different sectors of the market and the community have different views on the needs and pace of such reforms.

Conclusion No. 5

13.8 The Penny Stocks Incident, which has confirmed volatility of these stocks, is some testament to the need to tackle the problems associated with them sooner, rather than later.

13.9 The Incident seemed to have been the outcome of a combination of factors which fed on and magnified each other. There was the prevailing unfavourable market sentiment, the generally weak investor confidence, and the inherent volatility of these stocks. We have noted criticisms of the contents of and the arrangements surrounding the release of the Consultation Paper. And clearly its release triggered the reaction on the 26 July, but it would be simplistic and inaccurate to identify the Consultation Paper as the single cause of what happened. Unfounded rumours about margin calls, panic reaction to the dumping, an element of when fortune smiles, take advantage as well as unreflecting herd instincts also played a part.

Conclusion No. 6

13.10 We are in a position to be forward looking and we have been able to reflect on these matters with hindsight. The whole consultation exercise would have been much better managed if more pre-consultation sounding had been done in the gestation process.

13.11 The HKEx did not formally engage the market in developing the concept and details of the proposal until about two weeks before the publication of the Consultation Paper. The SFC also felt inhibited from involving its network in commenting on the HKEx's proposals during the drafting stage. While the HKEx had been conscientiously keeping track of views expressed in the media, we have noted that that is not a complete substitute for engaging its stakeholders early and often.

Conclusion No. 7

13.12 The HKEx and the SFC have worked diligently in the preparation of the Consultation Paper. The HKEx adhered to its well-established and reasonable practices of processing similar consultation papers. Due process was, in a sense, followed, perhaps too rigidly.

13.13 The HKEx would not disagree that it could have done a better job had there not been some of the structural obstacles already identified. The lack of engagement of its extended family, the somewhat unclear role of the Listing Committee, the slightly tense relationship with the SFC all perhaps contributed to not making full and complete use of the available knowledge, experience and expertise.

Conclusion No. 8

13.14 What happened after the 26 July, and how the authorities reacted, may have generated even more discussion and comment and added an additional dimension to the Incident. The newly introduced accountability system, and what it meant in practice, almost overshadowed the technical issues to do with the Consultation Paper. The Penny Stocks Incident quickly developed into a political hot potato. There were criticisms of the perceived lack of understanding of the roles of the Government, the SFC and the HKEx within the three-tiered structure, the

lack of clarity over the division of responsibilities between the FS and the Secretary as well as what the accountability system entailed.

Conclusion No. 9

13.15 There is overwhelming support for the continuation of the three-tier regulatory structure. It has served Hong Kong well over the past 13 years. At the same time, there are calls for clearer delineation of responsibilities among the three parties and better co-ordination among them.