Comfort Zone

A world class international finance centre is underpinned by transparency, efficiency and trustworthiness, and the Investor Compensation Company aims to deliver all that and more, explains chairperson Ms Anna Wu.

Almost 18 months after its inception, the Investor Compensation Company Limited (ICC) is beginning to make its presence felt among the broking community and local retail investors.

A by-product of the enactment of the Securities and Futures Ordinance (SFO) on 1st April 2003, the ICC was set up to administer and manage the Investor Compensation Fund (ICF) which replaced the Unified Exchange Compensation Fund and the Commodity Exchange Compensation Fund.

According to Chairperson Ms. Anna Wu, the mission of the ICC is to effectively and efficiently administer investors' claims against the ICF under the SFO.

"The primary reasons for having this company take over the administration of claims are to have a dedicated vehicle to process claims, to consolidate a number of funds that were in existence, and to enlarge the scope of investors who stand to benefits" she said.

In setting up the ICC, the Government is also hoping to avoid a repetition of scenes such as those that accompanied the collapse of brokerage house CA Pacific in 1998, when investors complained of being left in the dark and demonstrated in the streets.

"At street level, we would want to demonstrate to investors that panic could generate panic and we don't want that," explained Ms. Wu. "We are here to serve these investors and we must give them quick and effective information. We've got to be seen to be serving them efficiently and the only way to calm a panic is to give out reliable information."

"On a more international level, people have to be reassured that we can deal with our market effectively. And that also means dealing with compensation claims so that there is a level of comfort for each retail investor that comes within our jurisdiction."

Comparison of new and old compensation schemes

	Investor Compensation Fund	**Unified Exchange Compensation Fund (UECF) and Commodity Exchange Compensation Fund (CECF)**
Parties responsible	Investor Compensation Company Limited	Stock Exchange of Hong Kong and Hong Kong Futures Exchange
Covered Intermediaries	All licensed intermediaries and authorized financial institutions including exchange and non-exchange participants	Exchange participants only
Compensation Limits	A maximum of HK$150,000 per investor	A maximum of HK$8,000,000 per SEHK participant and HK$2,000,000 per HKFE participant

Source: The SFC Quarterly Bulletin Summer 2004

Paper Chain

Ms. Wu said the ICC, which falls under the wing of the Securities and Futures Commission (SFC), had been roundly welcomed by the industry, but there was still a need for education for both brokers and retail investors.

She said the ICC was currently explaining to brokers the process and information requirements should an intermediary fail.

"The ICC seems to have been received well by the industry, but we are still doing a lot of promotion. It is important that we go out to the industry and explain how claims are processed and what we would need if claims should come about." explained Ms. Wu.

"We are doing a lot of presentations on how the system works, what we would expect in way of documentation and how we want things to move along efficiently."

"When people have a clearer picture of what and how we do things, they are better prepared to deal with a situation that has gone wrong. They have clearer expectations and understanding of how the ICC can serve them."

"That would include the retail investors who will benefit from the ICF."

Industry participation in Hong Kong

	Licensed Corporations	**Licensed Representatives**	**Responsible/Approved Officers**
SEHK Participants	*444*	*7,548*	*1,125*
HKFE Participants	*118*	*399*	*48*
SEHK/HKFE Participants	*5*	*219*	*25*
Non-Participants	720	9,151	1,284
Total	1,287	17,317	2,482
Registered Institutions (e.g. Banks)	98		
Total No. of Securities Dealers and Securities Margin Financiers	1,385		

Under the old scheme, only the exchange participants highlighted in blue are covered and the number is *9,931*.

Under the current Investor Compensation Fund, all the above exchange participants and non-exchange participants are covered and the total number is 21,184.

Source: The SFC Quarterly Bulletin Summer 2004

Broader Protection

The new scheme covers not only exchange participants, but also the previously excluded non-exchange participants, which in effect protects a larger number of retail investors.

Under the new scheme, the total amount of compensation that can be given as a result of a single default is limited to HK$150,000 per claimant.

This figure was calculated against the average amount invested by local investors, according to research provided by Hong Kong Exchanges and Clearing Limited.

'Default' means that a specified person (a licensed intermediary or an authorised financial institution), its employee or its associated person is in bankruptcy, winding up or insolvency or has committed breach of trust, defalcation, fraud or misfeasance, which occurs on or after 1st April 2003.

The new combined compensation fund will continue to be funded by a 0.002 percent levy on securities transactions, payable by the buyer and the seller, and HK$0.5 per side of a futures contract and HK$0.1 per side of a mini contract.

Claims must be submitted within the time specified in the 'Notice Inviting Claim', which will normally be 3 months from the date of the 'Notice Inviting Claim', or within 6 months of the investor being aware of the default.

The ICC will make payments as soon as is practicable following the determination, which in turn could be affected by complexity of the default or any legal process.

Clear Message

Although the ICC's primary concern is the welfare of retail investors, Ms. Wu – who is a former Chairperson of the Hong Kong Consumer Council and sits on the board of the SFC – stressed the ICC was not an industry watchdog or an insurance policy against bad investment decisions.

"We are kept posted on what legislative changes could come into effect, but we do not take policy decisions regarding the objectives or the scope of the ICF," she said.

"We keep an eye on the market to the extent that we need to be ready for a possible default situation."

"We are there to deal with the claims from the investors when they come through, but we are not there to promote that an investor must make a claim. That is an individual decision. Our job is to ensure that the investor is aware of the ICF and knows how to use it."

"And we are not a means to compensate the reckless investor who took a commercial decision and lost."