

A periodic newsletter to help participants in Hong Kong's financial markets better understand the Codes on Takeovers and Mergers and Share Repurchases

Public consultation on issues relating to property valuation requirements, confirmation of independence and timing for payment of offer consideration

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will be issued in due course.

The paper contains three parts.

- activities of the Takeovers Team for the period ended 30

The Executive believes that the more stringent requirements in Rule 11.1(f) should continue to apply to related party transactions and special deals where greater safeguards are considered appropriate. The proposed amendments recognise that in some circumstances the continued full application of Rule 11.1(f) may be unduly burdensome for the relevant company both in terms of the cost and time involved in obtaining an independent valuation, especially in cases when the need for the valuation arises from the action of an unrelated party.

Part 2 – Proposal relating to confirmations of independence in placing and top-up transactions

The Takeovers Code provides that a waiver from a mandatory offer obligation will normally be granted where a shareholder holding 50% or less of the voting rights of a company places part of his holding with one or more independent persons and, as soon as practicable, subscribes for new shares up to the number of shares placed at a price substantially equivalent to the placing price after taking account of expenses incurred in the transaction (see Note 6 on dispensations from Rule 26).

The Takeovers Code provides that in processing an application for a waiver the Executive will normally require the financial adviser or placing agent to verify and/or confirm that the purchaser is independent so that the Executive may “*satisfy itself of the*” (see Note 7 on dispensations from Rule 26). At times, the current wording of Note 7 causes practical difficulties since enquiries concerning the independence of p % e

"[d]isclosure must be made no later than 10.00 a.m. on the business day following the date of the transaction. Where dealings have taken place on stock exchanges in the time zones of the United States and there may be difficulty in disclosing dealings by 10.00 a.m., the Executive should be consulted."

In practice, the Executive has allowed an additional business day for disclosure of dealings in US time zones. That is to say disclosure of dealings in US time zones is expected to be made no later than 10:00am on the second business day (Hong Kong time) following the date of the transaction. For example, if a dealing took place in New York on Monday (US time) the disclosure should be made no later than 10:00am on Wednesday (Hong Kong time).

Update on overseas companies with secondary listings in Hong Kong to which the Codes do not apply

In the September 2010 issue of the Takeovers Bulletin, the Executive explained in the article entitled "The Codes do not apply

a public company in Hong Kong and therefore the Codes did not apply to it. In practice, the Executive has received a number of applications for confirmation from overseas companies seeking secondary listings in Hong Kong that the Codes do not apply to them. Having carefully considered the factors set out in section 4.2 of the Introduction to the Codes including the "centre of gravity" test as set out in the September article, the Executive has confirmed, in a number of cases, that the overseas companies concerned should not be considered public companies in Hong Kong for the purpose of the Codes and hence the Codes do not apply to them after their secondary listings in Hong Kong.

With the recent increase of overseas companies with secondary listings in Hong Kong, the Executive believes that it would be useful to the market if an update of the names of overseas companies with secondary listings in Hong Kong to which the Codes do not apply is provided in the Takeovers Bulletin. A list of such companies up to the date of publication of this Takeovers Bulletin is set out below.

Name	Stock Code
Glencore International plc	
Manulife Financial Corporation	
SouthGobi Resources Ltd	
Vale S.A.	6210/6230

A list (updated from time to time) of the names of overseas companies with secondary listings in Hong Kong, to which the Codes do not apply, will be available on the SFC website in due course.
