

19 May 2009

## **SFC Sanctions Koo Ming Kown in relation to breaches of the Takeovers Code**

### **Sanctions against Mr Koo**

1. The SFC announces today that disciplinary action has been taken against Mr Koo Ming Kown (“**Mr Koo**”) in relation to breaches of the Code on Takeovers and Mergers (“**Takeovers Code**”):
  - (a) The Takeovers Executive has imposed an order denying Mr Koo direct or indirect access to the Hong Kong securities markets (a Cold Shoulder Order) for a period of 24 months commencing on 25 May 2009 to 24 May 2011.
  - (b) The Executive also publicly censures Mr Koo in relation to his conduct in this matter.
2. Mr Koo is the only non-executive director of Nam Tam Electronic & Electrical Products Limited (“**NTEEP**”) and the only executive director of Nam Tai Electronics, Inc (“**NTEI**”).

### **Background and relevant provisions of the Takeovers Code**

3. On 14 April 2009 the Hong Kong Panel on Takeovers and Mergers ruled that a voluntary conditional general cash offer by NTEI to privatise NTEEP that had lapsed on 6 April 2009 could not be re-opened. Rule 2.11 of the Takeovers Code provides that except with the consent of the Executive a person seeking to privatise a company by means of an offer and the use of compulsory acquisition rights may keep the offer open for a maximum of 4 months. The Panel noted that *“NTEI was accustomed to takeover and other corporate activity in Hong Kong. It had, for example, attempted to privatise NTEEP in 2005. So there is no suggestion that it did not know what was required of it under the Code or that its financial adviser, Yu Ming, failed to provide the guidance it is required to give its client on understanding the requirements of the Code. When NTEI decided on 6 April, 2009 not to extend the offer in the event it fell short, by whatever margin, of the 90% threshold, it knew or ought to have known the implications of what it was doing.”*
4. The Panel’s full written decision was published on 21 April 2009 and can be found in the “Prospectuses, Takeovers & Mergers” – “Takeovers and Mergers” – “Panel and Executive Decisions / Statements” section of the SFC website at [www.sfc.hk](http://www.sfc.hk).
5. Rule 31.1 of the Takeovers Code provides:

*“(a) Except with the consent of the Executive, where an offer has been announced or posted but has not become or been declared unconditional, and has been withdrawn or has lapsed, neither the offeror nor any person who acted in concert with it in the course of the original offer, nor any person who is subsequently acting in concert with any of them, may within 12 months from the date on which such offer is withdrawn or lapses either:–*

*(i) announce an offer or possible offer for the offeree company (including a partial offer which could result in the offeror holding shares carrying 30% or more of the*





certificates have been returned to shareholders; and

(d) the offeror had the right under the Takeovers Code to extend the previous lapsed offer although he chose not to do so.

17. The primary purpose of the Takeovers Code is to afford fair treatment of shareholders. As stated in the Introduction to the Takeovers Code it provides an orderly framework within which takeovers, mergers and share repurchases are to be conducted and places important disciplines on those who are engaged in takeover activities. In this instance the conduct of Mr Koo constituted intentional and serious breaches of the Takeovers Code which merit strong disciplinary action. Mr Koo accepts that he has breached the Takeovers Code as described and has consented to the disciplinary action taken against him under section 12.3 of the Introduction to the Takeovers Code. Mr Koo has apologised unreservedly for his conduct in this matter and has undertaken to fully cooperate with the SFC and comply with the regulatory requirements on all matters relating to the Takeovers Code.
18. Finally the Executive wishes to take this opportunity to remind practitioners and parties who wish to take advantage of the securities markets in Hong Kong that they should conduct themselves in matters relating to takeovers and mergers in accordance with the Takeovers Code. If they do not, they may find by way of sanction, that the facilities of such markets are withheld in order to protect those who participate in Hong Kong's securities markets. The Listing Rules expressly require compliance with the Takeovers Code.

Ends

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## **SECURITIES AND FUTURES COMMISSION**

### **Order pursuant to section 12 of the Introduction to the Hong Kong Codes on Takeovers and Mergers and Share Repurchases**

#### **Mr Koo Ming Kown**

The Executive Director of the Corporate Finance Division of the SFC ("Executive Director") hereby **REQUIRES** that all licensed corporations, licensed representatives and registered institutions within the meaning of the Securities and Futures Ordinance (Cap. 571) and relevant individuals within the meaning of section 20(10) of the Banking Ordinance (Cap. 155) shall not, without the prior consent of the Executive in writing:

- act or continue to act directly or indirectly in their capacity as licensed corporations, licensed representatives and registered institutions or relevant individuals for Mr Koo Ming Kown or any corporation controlled by him (as defined in the Hong Kong Codes on Takeovers and Mergers and Share Repurchases) other than Nam Tai Electronics, Inc and Nam Tai Electronic & Electrical Products Limited and their respective subsidiaries ; or
- knowingly assist directly or indirectly in a breach of this Order;

during the period commencing on 25 May 2009 and ending on 24 May 2011.

BY ORDER

Gail Humphryes

On behalf of the Executive

19 May 2009

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