

On 17 January 2013, the Takeovers and Mergers Panel (Takeovers Panel) ruled that an obligation under the Takeovers Code to make a chain principle offer for Greenheart Group Limited (Greenheart) would be triggered if Sino-Forest Corporation (Sino-Forest) proceeded with the transfer of substantially all the assets of Sino-Forest, which included an indirect shareholding of 63.6% in Greenheart, to a new company wholly-owned by Sino-Forest's creditors. The Takeovers Panel also decided that a waiver of any such mandatory offer obligation would not be available.

Background

The matter related to a proposed restructuring of Sino Forest
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Sino-Forest is a company whose shares were previously listed on the Toronto Stock Exchange. Following a report in June 2011 by Muddy Waters L.L.C., Sino-Forest experienced severe
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of its obligations under certain notes it had issued.

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Companies' Creditors Arrangement Act (the CCAA) seeking the protection of the Ontario Court to rearrange its affairs.

Following the unsuccessful sale of its assets (including its 63.6% interest in Greenheart) at an appropriate price, it was proposed that Sino-Forest would transfer its assets to a new

One of the assets to be transferred from Sino-Forest to New Holdco was the entire issued share capital of Sino-Capital Global Inc. (SCGI) which held shares representing some 63.6% of the voting rights of Greenheart, and some other businesses, being primarily a business owned by another subsidiary, Homix Limited, engaged in wood manufacturing.

The Ad Hoc Committee applied to the Executive for a ruling on whether a chain principle offer for Greenheart would be triggered under Note 8 to Rule 26.1 of the Takeovers Code as a result of the Restructuring Plan. At the request of the advisers of the Ad Hoc Committee, the application was referred to the Takeovers Panel.

Whether a chain principle offer will be triggered

The advisers to the Ad Hoc Committee argued that the proposed transfer of SCGI with its controlling interest in Greenheart is one element in the Restructuring Plan and should not be seen separately from it. It was suggested that SCGI was also not a core

Following the Takeovers Panel decision, Emerald Plantation Group Limited, a company newly incorporated by the Ad Hoc Committee, announced a mandatory general offer for the shares of Greenheart on 31 January 2013.

The full written decision of the Takeovers Panel can be found in the “Regulatory functions – Listings & takeovers – Takeovers & Mergers – Decisions & statements – Takeovers and Mergers Panel and Takeovers Appeal Committee decisions and statements” section of the SFC website.

Appointments and reappointments to the Takeovers Panel and related committees

We welcome the following new appointments and reappointments to the Takeovers Panel, the Takeovers Appeal Committee (Appeal Committee) and the Nominations Committee with effect from 1 April 2013:

Takeovers Panel and Appeal Committee

New appointments - Mr Freeman Chan (Deputy Chairman of the Takeovers Panel), Mr David Webb (Deputy Chairman of the Takeovers Panel) and Ms Melissa Brown

Reappointments - Mr Stephen Clark (Chairman of the Takeovers Panel), Mr Roger Denny, Mr Ernest Ip, Mr Edward Lam, Mr Bonn Liu, Mr Joseph Lo, Ms Teresa Ma, Mr Christopher Swift, Mr Andrew Tortoisshell and Mrs Judy Vas

Nominations Committee

Reappointment – Mr Anderson Chow, SC

We wish to thank Mr Daniel Rodgers and Ms May Tan who have stepped down from the Takeovers Panel and the Appeal Committee for their valuable contributions over the years.

Members are appointed for a term of two years and unless otherwise stated, their current terms are until 31 March 2014. The
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Members

Ms Brown Melissa[#]

Ms Charlton Julia Frances

Mr Cheung Yuk Tong

Mr Denny Roger Michael*

Ms Desai Kalpana

Mr Ip Koon Wing, Ernest*

Mr Kwok Tun Ho, Chester

Mr Lam Sung Lai, Edward*

Mrs Lee Pui Ling, Angelina, SBS, JP

Mr Liu Che Ning

Mr Liu Swee Long, Michael

Mr Liu Yun Bonn*

Mr Lo Kin Ching, Joseph*

Mr Lung Hak Kau

Ms Ma, Ka Ming Teresa*

Mr Nesbitt Gavin Paul

Mr Norman David Michael

Mr Norris Nicholas Andrew

Mr Sabine Martin Nevil

Mr Schwille Mark Andrew

Mr Swift, Christopher Lee*

Mr Tortoiseshell Andrew*

Mrs Vas Chau Lai Kun Judy*

Mr Winter Richard David

Ms Yu Ka Po, Benita

* reappointed on 1 April 2013 for a term of two years until 31 March 2015

[#] appointed on 1 April 2013 for a term of two years until 31 March 2015

Appeal Committee

The Appeal Committee reviews disciplinary rulings of the Takeovers Panel for the sole purpose of determining whether any sanction imposed by the Takeovers Panel is unfair or excessive. It comprises a Chairman who is a member of the Disciplinary Chair Committee and other members of the Takeovers Panel who are selected on a case-by-case basis.

Disciplinary Chair Committee

Members are nominated by the Nominations Committee on the basis that they are duly experienced senior counsel. Their role is to act as Chairman of the Takeovers Panel in disciplinary proceedings under the Codes or of the Appeal Committee on a case-by-case basis.

Members

Mr Chan King Sang, Edward, SC

Mr Ho Ambrose, SC

Ms Li Gladys Veronica, SC

Mr Ng Kar Fai, Peter, SC

Mr Wong Yuk Lun, Horace, SC

Nominations Committee

Alternate members to Clark Stephen Edward

Mr Chan Yuk Sing, Freeman

Ms Ko, Teresa Yuk Yin, JP

Mr Liu Chee Ming

Mr Maguire John Martin

Mr Webb David Michael

* reappointed on 1 April 2013 for a term of two years until 31 March 2015

appointed on 1 November 2012 for a term of two years until 31 October 2014

A full list of members of the Takeovers Panel, the Appeal Committee, the Disciplinary Chair Committee and the Nominations Committee can be found in the “Regulatory functions – Listings & takeovers – Takeovers & Mergers – Takeovers Panel & related committees” section of the SFC website.

Quarterly update on the activities of the Takeovers Team

In the three months ended 31 December 2012, the Executive dealt with nine takeovers-related cases (including privatisations, voluntary and mandatory general offers and off-market and general-offer repurchases) and seven whitewashes. The Executive also received 42 ruling applications.