SFC
證監會

# TAKEOVERS BULLETIN

ISSUE NO. 44
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On 5 March 2018, we publicly criticised Nomura International (Hong Kong) Limited and Lee Yuen Yee, Annisa for failure to comply with certain requirements in the issuance of research reports and profit forecasts in breach of Rules 8 and 10 of the Takeovers Code.

A copy of the Executive Statement can be found in the section "Regulatory functions – Listing & takeovers – Takeovers & mergers – Decisions & statements – Executive decisions and statements" of the SFC website.

We wish remind practitioners and parties who wish to take advantage of the securities market in Hong Kong that they should conduct themselves in accordance with the Codes in matters relating to takeovers, mergers and share buy-backs. In particular, we expect financial and other professional advisers to have the competence, professional expertise and adequate resources to fulfil their roles and to discharge their responsibilities under the Codes. Advisers are required to be conversant with the Codes as under section 1.7 of the Introduction to the Codes it is part of their responsibility to ensure their clients understand, and abide by, the requirements of the Codes.

Rule 11.1 of the Takeovers Code provides that when valuations of assets are given in connection with an offer, details of the valuation or an appropriate summary must be included in the offer document, offeree board circular or other documents. Rule 11.1(f) of the Takeovers Code sets out when a valuation report of properties will be required. Commonly, when such a property valuation report is required, the full property valuation report is included in the document. However, there may be situations (eg, where the offeree company has a large portfolio of properties) where a summary of the property valuation report is included in the document instead. In such circumstances, the full valuation report must be made available as a document on display in accordance with Note 1 to Rule 8 and Rule 11.5(d) of the Takeovers Code.

To facilitate transparency and ensure consistency with other cases where the full valuation report has been included and continues to be publicly available after completion of the Code transaction, where only a summary property valuation report is included, we would expect the full version to be published on the Stock Exchange's website by way of an announcement at the same time as the offer document, offeree board circular or the relevant shareholders circular is despatched to shareholders and published on the Stock Exchange's website.

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Following a review conducted by the Executive in consultation with the Takeovers Panel, we launched a three-month consultation on proposed amendments to the Codes in January 2018 (see Takeovers Bulletin Issue No. 43(S) (January 2018) for details).

Comments can be submitted via the SFC website, by e-mail to takeoverscode_review@sfc.hk, by post or by fax to 2810 5385 on or before 19 April 2018.

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We welcome the following new appointments and reappointments to the Takeovers and Mergers Panel (Panel), the Takeovers Appeal Committee (Appeal Committee), the Disciplinary Chair Committee and the Nominations Committee with effect from 1 April 2018:

<u>Panel and Appeal Committee</u>
New appointments – Ms Celia Lam, Mr Julian Wolhardt and Mr Alex Wong

Reappointments – Ms Teresa Ko, JP, Mr Liu Chee Ming and Mr John Maguire (Deputy Chairmen of the Panel and members of the Appeal Committee), Mr Conrad Chan, Ms Julia Charlton, Mr Lawrence Lee, BBS, JP, Mr David Norman, Mr Nicholas Norris, Mr Martin Sabine, Mr Mark Schwille, Mr James Soutar, Mr Richard Winter and Ms Benita Yu

<u>Disciplinary Chair Committee</u>
New appointments – Mr Victor Dawes, SC, Mr Douglas Lam, SC and Mr Anson Wong, SC

Reappointments – Mr Jat Sew Tong, SC, JP, Ms Gladys Li, SC and Mr Paul Shieh, SC

<u>Nominations Committee</u>
Reappointments – Mr Carlson Tong, SBS, JP and Dr William Wong, SC

Members are appointed for a two-year term until 31 March 2020 unless stated otherwise. The membership lists for the Panel, Appeal Committee, Disciplinary Chair Committee and Nominations Committee are set out below.

The Panel hears disciplinary matters in the first instance, reviews rulings by the Executive at the request of any party dissatisfied with such a ruling and considers novel, important or difficult cases referred to it by the Executive. It also reviews, upon request by

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

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

Members
Mr Dawes Victor, SC
Mr Jat Sew Tong, SC, JP
Mr Lam Tak Yip, Douglas, SC
Ms Li Gladys Veronica, SC
Mr Shieh Wing Tai, Paul, SC
Mr Wong Man Kit, Anson, SC

The Nominations Committee nominates members of the Panel, Appeal Committee and Disciplinary Chair Committee.

Ex offcio Members
Mr Alder Ashley Ian, JP (Chairman)
Mr Clark Stephen Edward
Mr Ho Yin Tung, Brian

Members
Mr Tong Carlson, SBS, JP*
Dr Wong Ming Fung William, SC*

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 2018 for a two-year term until 31 March 2020.

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

In the three months ended 31 December 2017, we received 19 takeovers-related cases (including privatisations, voluntary and mandatory general offers and off-market and general-offer share buy-backs), 12 whitewashes and 68 ruling applications.

- The Codes on Takeovers and Mergers and Share Buy-backs
- Practice notes
- Decisions and statements
- Previous *Takeovers Bulletins*

All issues of the *Takeovers Bulletin* are available under