

Takeovers Executive of the SFC criticises China New Way Investment Limited, Wei Judong, Zhang Xiaoliang, Yang Weizhi, Wei Lidong and Xu Jianhua in relation to prohibited share acquisitions under the Takeovers Code

Criticism of China New Way Investment Limited (“Offeror”), Wei Judong (“Mr J Wei”), Zhang Xiaoliang (“Mr Zhang”), Yang Weizhi (“Ms. Yang”), Wei Lidong (“Mr L Wei”) and Xu Jianhua (“Mr Xu”)

1. The Executive publicly criticises the Offeror, Mr J Wei, Mr Zhang, Ms. Yang, Mr L Wei and Mr Xu (together referred to as the “**Parties**”) for acquiring shares in China City Construction Group Holdings Limited, formerly known as Chun Wo Development Holdings Limited (“**Company**”) within 6 months after the close of an offer (“**Restriction Period**”) at above the offer price in breach of Rule 31.3 of the Takeovers Code (Note).

Background

2. On 2 January 2015 the Offeror made an unconditional mandatory general offer in cash for the shares of the Company (“**Shares**”) at HK\$1.099 per share. The offer closed on 23 January 2015.
3. The Offeror is wholly owned by New Way International Investment Holdings Limited (“**New Way**”). New Way is beneficially owned by Mr J Wei, Mr Zhang, Ms. Yang and Huinong Financial Holdings Limited (a company indirectly wholly-owned by Mr L Wei), who each holds 25% of its issued shares (“**Offeror’s Beneficial Shareholders**”). At the material time, Mr Xu was the sole director of the Offeror.
4. On 6 and 7 July 2015 during the Restriction Period, the Offeror made a series of on-market acquisitions of a total of 2,930,000 Shares at prices ranging from HK\$1.19 to HK\$1.50 per Share (“**Acquisitions**”).

Breach of Rule 31.3 of the Takeovers Code

5. Rule 31.3 of the Takeovers Code prohibited the Offeror and its concert parties from buying Shares at prices higher than the offer price of \$1.099 per share during the Restriction Period. The Acquisitions were made at prices higher than HK\$1.099 in breach of Rule 31.3.
6. The Offeror reported the Acquisitions to the Executive on 27 July 2015 and submitted that the breaches were not intentional. The Offeror explained that the Offeror’s Beneficial Shareholders decided to make the Acquisitions in light of the fall in the Company’s share price in early July 2015 in order to demonstrate their confidence in the Company. Mr Xu gave the instructions on behalf of the Offeror to make the Acquisitions.
7. The Offeror has apologised for the breach and has undertaken to take all steps to enhance its internal controls and ensure future compliance with all rules and regulations (including the Takeovers Code). The Parties accepted that they have breached Rule 31.3 and agreed to the current disciplinary action taken against them under section 12.3 of the Introduction to the Takeovers Code.
8. The Executive reminds all those involved in takeovers and mergers in Hong Kong of the prohibition imposed by Rule 31.3 of the Takeovers Code. Rule 31.3 affords equality of treatment to shareholders in an offer in accordance with General Principle 1 of the Takeovers Code. The rule provides shareholders with certainty that an offeror will not pay a price higher than the offer price for the shares in the offeree company in the 6-month period after the close of an offer, and as a result, it ensures that all shareholders of the offeree company are treated even-handedly.

9. If there is any doubt about the application of the Takeovers Code, the Executive should be consulted at the earliest opportunity.

Note: Rule 31.3 of the Takeovers Code states that *“Except with the consent of the Executive, if a person, together with any person acting in concert with him, holds more than 50% of the voting rights of a company, neither that person nor any person acting in concert with him may, within 6 months after the end of the offer period of any previous offer made by him to the shareholders of that company which became or was declared unconditional, make a second offer to, or acquire any shares from, any shareholder in that company at a higher price than that made available under the previous offer. For this purpose the value of a securities exchange offer shall be calculated as at the day the offer became, or was declared, unconditional.”*

26 May 2016