

An SFC newsletter to help participants in Hong Kong's financial markets better understand the Codes on Takeovers and Mergers and Share Buy-backs

Feedback and comments:
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Public censure and cold shoulder order imposed on Liang Guosheng for breach of mandatory offer requirement

On 30 July 2018, we publicly censured and imposed a 24-month cold shoulder order against Liang Guosheng for breaching the mandatory general offer obligation under Rule 26.1 of the Takeovers Code. Liang is being denied direct or indirect access to the Hong Kong securities market until 29 July 2020.

At the time of the breach, Liang held senior positions in three wholly-owned principal subsidiaries of Silver Base Group Holdings Limited (Silver Base). As at 23 July 2017, Liang did not hold any interest in Silver Base whilst his brother and his brother's family trust, being Liang's concert parties, held in aggregate 43.83%. Liang acquired shares in Silver Base on-market and by 31 July 2017, his and his concert parties' aggregate shareholding increased from 43.83% to 45.87% and triggered a mandatory offer obligation under Rule 26.1(d) of the Takeovers Code.

Liang's action and failure to make an offer deprived Silver Base's shareholders of the right to receive a general offer. He has apologised for the breach and agreed to the sanctions against him.

Parties who wish to take advantage of the securities markets in Hong Kong are reminded that they should conduct themselves in matters relating to takeovers, mergers and share buy-backs in accordance with the Takeovers Code. If they do not, they may find that the facilities of such markets are withheld by way of sanction in order to protect those who participate in them.

A copy of the Executive Statement dated 30 July 2018 can be found in the "Regulatory functions – Listings & takeovers – Takeovers & Mergers – Decisions & statements – Executive decisions and statements" section of the SFC website.

Highlights

- Cold shoulder order imposed on Liang Guosheng for breach of mandatory offer requirement
- Revision to Practice Note 20
- Quarterly update on the activities of the Takeovers Team

Revisions to Practice Note 20 – Details of financial advisers

To facilitate more efficient and timely communication between the Executive and the working parties and as a matter of practice, we have been requesting for the names of the financial advisers to the potential offeror, the offeror, offeree company or whitewash applicant (including the names of the relevant case officers involved in the transaction) and other details be provided to us. Going forward we will require such information be provided in all transactions which involve the issue of an offer document, offeree board circular, whitewash document, share buy-back offer document or off-market share buy-back circular. This requirement also applies to independent financial advisers.

The list of financial advisers and other related information should be provided as soon as possible and in any event within three business days after the publication of the announcement which commences an offer period or the first announcement of the whitewash proposal. If no financial adviser has been engaged at that stage, such details should be provided no later than three business days after the appointment is made. The list should set out:

- (i) the types of licences held by each financial adviser and any conditions attached to such licences;
- (ii) the names of the responsible officers in charge of the transaction;
- (iii) the name and title of each team member involved in the transaction;
- (iv) the detailed responsibility and role to be played by each team member during the transaction; and
- (v) the types of licences held by each team member and any conditions attached to his or her licences.

During the course of the transaction, the Executive should be notified as soon as possible if there is any change to the information provided.

The above requirement is reflected in the revised Practice Note 20. A marked-up version and a clean version of revised Practice Note 20 can be found in the “Regulatory functions – Listing & takeovers – Takeovers and mergers – Practice Note” section of the SFC website.

Quarterly update on the activities of the Takeovers Team

In the three months ended 30 June 2018, we received 23 takeovers-related cases (including privatisations, voluntary and mandatory general offers and off-market and general-offer share buy-backs), eight whitewashes and 80 ruling applications.

Useful links

- 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 ‘Published resources – Industry-related publications – *Takeovers Bulletin*’ on the SFC website at www.sfc.hk.

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