

## 4.—INTRODUCTION

### 1. Nature and purpose of the Takeovers Code ~~on Takeovers and Mergers and Share Repurchases Code~~

1.1 The ~~Code on Takeovers and Mergers~~ (the “Takeovers Code”) and the ~~Code on Share Repurchases~~ (the “Share Repurchase Code”) have been issued by the ~~Securities and Futures Commission~~ (the “SFC”) in consultation with the ~~Takeovers and Mergers Panel~~ (the “Panel”) ~~and its predecessor, the Committee on Takeovers and Mergers.~~

1.2 The primary purpose of the ~~Takeovers Code and the Share Repurchase Code~~ (collectively, the “Codes”) is to afford fair treatment for shareholders who are affected by takeovers, ~~and mergers transactions~~ and share repurchases. The Codes seek to achieve fair treatment by requiring equality of treatment of shareholders, mandating disclosure of timely and adequate information to enable shareholders to make an informed decision as to the merits of an offer and ensuring that there is a fair and informed market in the shares of companies affected by takeovers, ~~and mergers transactions~~ and share repurchases. The Codes also provide an orderly framework within which takeovers, mergers and share repurchases are to be conducted.

1.3 The Codes do not have the force of law. They are framed so far as possible in non-technical language and should not be interpreted as if they are statutes. The Codes represent a consensus of opinion of those who participate in Hong Kong’s financial markets and the SFC regarding standards of commercial conduct and behaviour considered acceptable for takeovers, ~~and mergers transactions~~ and share repurchases ~~in Hong Kong~~. This consensus of opinion is reflected in rulings made by the Panel when interpreting the Codes given the diverse range of interests represented by the Panel’s members. Similar standards of commercial conduct and behaviour are applied in other leading financial centres.

1.4 Those who wish to take advantage of the securities markets in Hong Kong should conduct themselves in matters relating to takeovers, mergers and share repurchases in accordance with the Codes. If they do not do so they may find, by way of sanction, that the facilities of such markets are withheld. The Listing Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited expressly require compliance with the Codes.

1.5 The responsibilities provided for in the Codes apply to:-

- (a) directors of ~~public~~ companies that are subject to the Codes;
- (b) persons or groups of persons who seek to gain or consolidate control of ~~public~~ companies that are subject to the Codes;
- (c) their professional advisers; ~~and~~

(d) persons who otherwise participate in, or are connected with, transactions to which the Codes apply; and

(e) ~~(d)~~—those persons who are actively engaged in the securities market in all its aspects.

1.6 In addition, any other persons who issue circulars or advertisements to shareholders in connection with takeovers, ~~and~~ mergers or share repurchases must observe the highest standards of care and consult with the Executive Director of the Corporate Finance Division of the SFC or any delegate of the Executive Director (the “Executive”) prior to the release thereof.

1.7 The role and responsibility of financial and other professional advisers is of particular importance given the non-statutory nature of the Codes, and it is part of their responsibility to use all reasonable efforts, subject to any relevant requirements of professional conduct, to ensure that their clients understand, and abide by, the requirements of the Codes, and to co-operate to that end by responding to inquiries from the Executive, the Panel or the Takeovers Appeal Committee. Financial and other professional advisers must therefore have the competence, professional expertise and adequate resources to fulfil their role and to discharge their responsibility under the Codes. If a financial adviser is in any doubt about its ability to meet these requirements, it should consult the Executive in advance. If the Executive considers that a financial adviser is not able to meet these requirements, it may not allow that financial adviser to act in that capacity. In such circumstances the financial adviser may ask the Panel to review the decision of the Executive. Financial advisers must also be mindful of conflicts of interest (see Schedule VII of the Codes).

1.8 The Codes are not concerned with the financial or commercial advantages or disadvantages of a takeover, merger or share repurchase, as the case may be. These are matters for the company and its shareholders.

1.9 A company contemplating a takeover, ~~or~~ merger ~~transaction~~ or ~~a~~ share repurchase should apprise itself of applicable company law requirements, if any, which may affect its ability to conduct the proposed transaction.

## 2. General Principles and Rules

2.1 ~~2.1~~—The Codes share common definitions and the General Principles. The General Principles are essentially statements of good standards of conduct to be observed in takeovers, mergers or share repurchases. The General Principles are expressed in broad general terms and do not define the precise extent or the limits of their application. The Executive and the Panel apply the General Principles in accordance with their spirit and may modify or relax the effect of the language to achieve their underlying purposes. The provisions of each Code fall into two categories. First, there are General Principles of conduct to be observed in takeover, merger or share repurchase transactions. Secondly, each Code lays down a series of Rules. Some Rules are no more than examples of the application of the General Principles and the Executive and the Panel will interpret them in accordance with those Principles.

In addition to the General Principles, each of the Codes contains a series of Rules, some of which are effectively expansions of the General Principles and examples of their application and Others are rules of procedure designed to govern specific types of takeovers, mergers or share repurchases-transactions. Although the Rules are expressed in more detailed language than the General Principles, they, like the General Principles, are to be interpreted to achieve their underlying purposes. Accordingly, each of the Codes, through the General Principles, may apply to a-situations not specifically covered by any Rule. Therefore, the spirit of the Rules must be observed as well as their letter and The Executive and the Panel may each modify or relax the application of a Rule if it considers that, in the particular-exceptional circumstances of the case, for example, when it considers that its-strict application of a Rule would operate harshly in an unnecessarily restrictive or unduly burdensome, or otherwise inappropriate, manner.

2.2 To assist ~~with an~~the interpretation of the Rules, notes have been inserted ~~under the Rules~~, where appropriate, to provide guidance as to how the Executive and the Panel Rules will normally ~~be interpreted by the Executive and the Panel~~ the Codes.

2.3 The Executive and the Panel ~~also will~~ interpret each of the Codes in the light of previous rulings that have been made under both Codes by the Executive and the Panel, or their predecessor, the Committee on Takeovers and Mergers, ~~and in the light of the notes that have been inserted under the Rules of both Codes.~~

### 3. **Amendment of the Codes**

3.1 The Codes may be amended or extended from time to time by the SFC in consultation with the Panel.

### 4. **Companies and transactions to which the Codes apply**

4.1 The ~~Takeovers~~ Codes apply applies to takeovers, ~~and~~ mergers and share repurchases affecting public companies in Hong Kong and companies with a primary listing of their equity securities in Hong Kong. As a result, although it is generally the nature of the offeree company, the potential offeree company, or the company in which control may change or be consolidated that is relevant, there are also circumstances, specified in Rule 2 of the Takeovers Code, in which it is necessary to consider the treatment of the offeror's shareholders in order to carry out the objectives of the Takeovers Code.

~~4.2 The Share Repurchase Code applies to all public companies in Hong Kong. Private companies are exempt from its provisions.~~ The Executive will normally grant a waiver from the requirements of the Share Repurchase Code for companies with a primary listing outside Hong Kong provided that shareholders in Hong Kong are adequately protected.

4.2 In order to determine whether a company is a public company in Hong Kong the Executive will consider all the circumstances and will apply an economic

or commercial test, taking into account primarily the number of Hong Kong shareholders and the extent of share trading in Hong Kong and other factors including:-

- (a) the location of its head office and place of central management;
- (b) the location of its business and assets, including such factors as registration under companies legislation and tax status; and
- (c) the existence or absence of protection available to Hong Kong shareholders given by any statute or code regulating takeovers, mergers and share repurchases outside Hong Kong.

If a company is in any doubt about its status as a public company in Hong Kong, it should consult the Executive at an early stage.

4.3 The Takeovers Code is concerned with offers for, and takeovers and mergers of, all relevant companies, however effected. These include partial offers, offers by a parent company for shares in its subsidiary and certain other transactions where control (as defined) of a company is to be obtained or consolidated. References in the Takeovers Code to “takeovers” and “offers” include, where appropriate, all such transactions, including share repurchases by general offer as described below. The Takeovers Code does not apply to offers for non-voting, non-equity capital unless required by Rules 13 and 14 of the Takeovers Code.

4.4 The Share Repurchase Code is concerned with share repurchases of all relevant companies. Share repurchases by general offer will be considered to be offers and the Rules of the Takeovers Code will apply, mutatis mutandis, in addition to the Rules of the Share Repurchase Code. Persons engaging in share repurchases by general offer should therefore read the Takeovers Code as well as the Share Repurchase Code.

4.5 Transactions under either of the Codes may from time to time be subject to the jurisdiction of both the Panel and an overseas regulator. In such cases, early consultation with the Executive is strongly recommended so that conflicts between the relevant requirements of the two jurisdictions may be resolved.

## **5. ~~The Takeovers and Mergers~~ Executive**

**5.1** The Codes are administered by the Executive. The Executive undertakes the investigation of takeovers, mergers and share repurchases ~~transactions~~ and ~~the monitoring of~~ related dealings in connection with the Codes. It is available for consultation and to give rulings on all matters to which the Codes apply before or during takeovers and mergers or share repurchases, as the case may be.

6. **The ~~Takeovers and Mergers~~ Panel [New Section 11]**
- 6.1 The Panel is a committee of the SFC established under section 6(1) of the Securities and Futures Commission Ordinance (Cap. 24).
- 6.2 The Panel hears disciplinary matters in the first instance, and reviews rulings by the Executive at the request of any party dissatisfied with such a ruling. It also considers novel, important or difficult cases referred to it by the Executive.
- 6.3 The Panel consists of up to 26 members drawn from the financial and investment community, at least one of whom should be a non-executive director of the SFC, of whom up to four may be Executive Directors or staff of the SFC and the balance representatives of the Stock Exchange, financial institutions and other constituencies with an interest in takeovers and mergers. No more than two members who are Executive Directors or staff of the SFC may sit on any referral, review or disciplinary hearings. No Executive Directors or staff of the SFC may be members of the Panel.
- ~~6.4~~—Members of the Panel are appointed, and may be removed, by the SFC. They normally hold office for a one-year term but may be reappointed at the end of each term.
- ~~6.5~~—The Panel may co-opt other persons to assist in specific circumstances. Discussions on proposals for review of or amendment to the Codes shall include the Executive Directors and staff of the SFC.
- ~~6.46~~ The Panel will have a Chairman, and one or more Deputy Chairmen, ~~who may not be Executive Directors or staff of the SFC.~~ The chairman of each ~~meeting~~hearing of the Panel will be either the Chairman or a Deputy Chairman of the Panel or, if neither is available, such other member as may be appointed by the Panel. The chairman of each ~~meeting~~hearing of the Panel will have a deliberative and a casting vote.
- ~~6.7~~—~~Any member of the Executive appointed as a member of the Panel may not sit as a member of a panel of the Panel constituted for the purpose of considering a disciplinary matter or a matter involving an appeal from a first instance decision of the Executive.~~
- ~~6.8~~—The quorum for the Panel is five, including a chairman.
- ~~6.9~~—The Chairman will appoint a Secretary, who will normally be a staff member of the SFC.
- ~~6.510~~ Each member of the Panel and, where applicable, his firm, is required to comply with conflicts of interest guidelines issued by the SFC from time to time.

**7. The Takeovers Appeal Committee [New Section 14]**

7.1 Like the Panel, the Takeovers Appeal Committee is a committee of the SFC established under section 6(1) of the Securities and Futures Commission Ordinance (Cap. 24).

7.2 The Takeovers 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 based upon the Panel's finding of facts.

7.3 The Chairman and Deputy Chairman of the Securities and Futures Appeals Panel are the Chairman and Deputy Chairman, respectively, of the Takeovers Appeal Committee. The other members of the Committee comprise members of the ~~Takeovers and Mergers Panel other than representatives of the SFC, together with members~~ or of the Securities and Futures Appeals Panel who have legal training and experience.

7.4 Each ~~meeting~~ hearing of the Takeovers Appeal Committee is presided over by:-

- (a) the Chairman or the Deputy Chairman; or
- (b) another member of the Securities and Futures Appeals Panel who has legal training and experience and who is designated by the Chairman where he considers it inappropriate that either he or the Deputy Chairman should ~~preside over~~ chair a particular ~~meeting~~ hearing.

At each ~~meeting~~ hearing, the Committee shall consist of three individuals, namely the person presiding over the ~~meeting~~ hearing and two members of the ~~Takeovers and Mergers Panel other than representatives of the SFC~~. No member of the ~~Takeovers and Mergers Panel~~ may participate in a ~~meeting~~ hearing if he participated in the disciplinary proceedings in question.

**8. Consulting the Executive [New Section 6]**

8.1 When there is any doubt as to whether a proposed course of conduct is in accordance with the General Principles or the Rules, parties or their advisers should always consult the Executive in advance. In this way, the parties can ~~clarify~~ obtain clarification of the basis on which they can properly proceed and thus minimise the risk of taking action which might, ~~in the event~~, be a breach of ~~one of~~ the Codes.

8.2 Consultations do not attract any fee. They generally take the form of verbal discussions and will not be concluded with any formal ruling from the Executive. Views expressed by the Executive under consultations are preliminary and do not bind the Executive.

8.3 However, wWhile the Executive will respond to questions ~~on~~ respecting an interpretation of the Codes, it should not be expected to answer purely

hypothetical questions, or to give provisional rulings (e.g. when the parties with an interest in such rulings cannot be identified).

~~8.42 Consultations, which are usually initiated by parties in doubt over the applicability or interpretation of the Codes, do not attract any fee, mostly take the form of verbal discussions and will not be concluded with any formal and written rulings from the Executive. As quite often only limited facts or preliminary information are provided by parties to get a quick response, views expressed by the Executive under consultations are preliminary and do not bind the Executive as rulings which are subject to review by the Panel on application. Whilst the Executive may sometimes see fit to make a ruling on a Code issue in the first instance, more often a ruling (including a decision, confirmation and determination as described in section 20.1 of the Introduction to the Codes) is requested by an interested party with or without consultation, necessitating an application for a ruling in accordance with section 15.1 of the Introduction to the Codes which would attract a fee. The making of a ruling by the Executive normally involves a consideration of all relevant information in relation to the application and a more thorough analysis than that permissible under a consultation. Rulings may initially be conveyed to parties orally but will always be confirmed in writing in time.~~

Parties should be aware that consultations will not result in provisional rulings and, where the Codes require parties to consult, they are not precluded from seeking formal rulings and a fee becomes payable whenever a ruling is sought despite the fact that the process starts as a consultation. Where there is a difference in views between the Executive and parties about a Code issue based on preliminary information during or after a consultation, the Executive, mindful of the non-binding nature of consultations, generally urges parties to seek a formal ruling ~~with a view of preventing any breach of one of the Codes which may result from parties taking a certain course of action against the preliminary advice of the Executive.~~

~~8.3 Both principals and their advisers are encouraged to make full use of this service. To take legal or other professional advice on the interpretation or application of the Codes is generally not a satisfactory alternative to obtaining a view or ruling from the Executive.~~

## 9. Rulings by the Executive [\[New Section 7\]](#)

9.1 ~~A ruling under either Code is generally given in the first instance by the Executive. While the Executive may sometimes see fit to make a ruling under the Codes of its own volition, a ruling is more often requested by an interested party. A ruling by the Executive normally involves a consideration of all relevant information in relation to the application and a more thorough analysis than that permissible under a consultation. This would normally be in response to a request by an interested party.~~ In some cases the Executive may find it necessary to convene an informal ~~meeting~~ ~~hearing~~ or hear the views of other interested parties before making a ruling. The Executive requires prompt co-operation from those to whom enquiries are directed so that decisions may be both properly informed and given as speedily as possible. [Rulings may](#)

initially be conveyed to parties orally but will always be confirmed in writing in time.

## **10. Executive referrals to the Panel**

**10.1** The Executive may refer a matter to the Panel for a ruling without itself giving a ruling when it considers that there is a particularly novel, important or difficult point at issue.

## **11. Review of Executive rulingsdecisions [New Section 9]**

**11.1** If a party wishes to contest a ruling of the Executive, he may ask for the matter to be reviewed by the Panel, which will normally be convened at short notice. The Executive will arrange with the Panel and the relevant party a practical time for a Panel meeting taking into account the timetable of the transaction. The party and the Executive must supply succinct statements of their respective cases in advance of the meeting and copies of such statements will be provided to the Executive and the party respectively. The Panel has a discretion to entertain a request for review by an aggrieved shareholder, if it is satisfied that such request is not frivolous. When the Executive considers that it is necessary to resolve an issue urgently, ~~the Executive~~ may stipulate a reasonable time within which a request for review must be ~~made~~notified; in any other case, ~~the Executive~~ must be notified at the latest within 14 days of the event giving rise to the request for the review. Any request for a review shall contain the grounds on which the review is requested.

## **12. Disciplinary proceedings**

**12.1** The Executive may institute disciplinary proceedings before the Panel when it considers that there has been a breach of either of the Codes or of a ruling of the Executive or the Panel.

**12.2** A disciplinary case is one the sole or main purpose of which is to propose that disciplinary action should be taken. Disciplinary action is to be distinguished from requiring compliance with, or requiring that action be taken to remedy a breach of, the Codes or of a ruling of the Executive or the Panel. In any such case, the Executive invites the person concerned to appear before the Panel. If the Panel finds there has been a breach of either of the Codes or of a ruling, it may impose any of the following sanctions:-

- (a) private reprimand;
- (b) issuance of a public statement which involves criticism;
- (c) public censure;
- (d) reporting the offender's conduct to the SFC or another regulatory authority (for example, the Stock Exchange, the Hong Kong Monetary Authority~~Commissioner of Banking~~ or any professional body) or ~~to~~ an overseas regulatory authority;

- (e) requiring dealers and advisers, for a stated period, not to act or continue to act in any or a stated capacity for any person who has failed to comply, or has indicated that he does not intend to comply, with either of the Codes or a ruling;
- (f) banning advisers from appearing before the Executive or the Panel for a stated period; and/or
- (g) ~~such other action to be taken or not taken, as it requiring further action to be taken as the Panel~~ thinks fit.

~~The adoption of (d) above as a sanction for a breach of either Code or of a ruling does not preclude t~~The Executive or the Panel ~~may from~~ reporting a person to the regulatory authorities or professional bodies contemplated by section 12.2(d) even though there has been no finding of such a breach if ~~the any~~ person so reported is governed by rules, regulations or standards of professional conduct of the relevant regulatory authority or professional body ~~to which such person is reported~~ and the Executive or the Panel, ~~as the case may be,~~ has reasonable grounds for believing that the conduct of such person may have contravened such rules, regulations or standards of professional conduct.

12.3 The Executive may itself deal with a disciplinary matter if the party to be disciplined agrees to the disciplinary action proposed to be taken by the Executive.

12.43 Failure ~~of by~~ any registered person to comply with either of the Codes, or a ruling, or a requirement not to act for a named person in accordance with section 12.2(e) above, may (in accordance with the provisions of the relevant Ordinances) lead to suspension or revocation of his registration.

### ~~13. The Takeovers Appeal Committee~~

~~13.1 The jurisdiction of the Takeovers Appeal Committee is limited to reviewing the appropriateness of any sanction imposed by the Panel following a disciplinary proceeding. Notice of a request for such a review by the Takeovers Appeal Committee must be given to the Executive within 7 days of the receipt of written reasons from the Panel.~~

### 14. Review by SFC [New Section 18]

14.1 As a matter of general policy, the SFC will not normally review or otherwise involve itself in a ruling of the Panel or the Takeovers Appeal Committee.

### 15. ApplicationsRequests for rulings [New Section 8]

15.1 Any applicationrequest for a ruling under either of the Codes should take the form of a written submission addressed to the Executive Director, Corporate

Finance Division of the SFC. ~~The submission should be made by or on behalf of the party or parties required to make representations in support of the submission.~~ The submission should be comprehensive and contain all relevant information which the Executive will require to render a fully informed decision. ~~For the guidance of applicants, s~~Such information should normally include, ~~where appropriate,~~ the following ~~information~~:

(a) Summary

The ruling being sought, and any alternative courses of action, should be clearly described, and the issues for consideration summarised. The relevant sections of the Codes should be identified.

(b) Parties

All parties with a material interest in the submission, and their respective financial and legal advisers, should be identified.

(c) Material Facts

All material facts relevant to the application should be stated and should include, as appropriate, the following information:

- (i) a description of the proposed transaction including the timetable for implementation, related regulatory requirements and the reasons and commercial rationale for the transaction;
- (ii) where known after reasonable inquiry, a description of the relevant offeror and the offeree company including their places of incorporation, a description of their capital structures, group structures, businesses and assets, and the identities of their controlling and substantial shareholders, accompanied by a structural chart depicting the structure of the relevant offeror and the offeree company; and the interests of such shareholders, both before and after implementation of the proposed transaction;
- (iii) a historical chronology of related events;
- (iv) the controlling shareholders' interests in the relevant offeror, the offeree company and the proposed transaction;
- (v) the interest which directors of the relevant offeror and the offeree company have in the proposed transaction;
- (vi) the effect which the proposed transaction will have on the relevant offeror and the offeree company;
- (vii) steps to be taken, if any, to safeguard the interests of any independent shareholders;

- (viii) a description of financing arrangements for the proposed transaction;
- (ix) where known after reasonable inquiry, details of any dealings in securities of the offeree company by the relevant offeror, the directors and substantial shareholders of the relevant offeror and the offeree company, and any persons acting in concert with any of them~~such persons~~, for the six~~6~~ month period immediately preceding the date of the application; and
- (x) a description of the terms and conditions of material contracts.

(d) Issues for Consideration

The issues for consideration by the Executive should be described and analysed, and all arguments advanced in support of the ruling being sought.

~~(e) — Fees~~

15.2 A crossed cheque payable to the SFC in the amount of the fee, if any, payable pursuant to the Securities and Futures Commission (Fees) Rules should be enclosed with the submission and, where applicable, the submission should include a brief description of the way in which the fee was calculated. A copy of Parts III and IV and Schedule 2 of the Securities and Futures Commission (Fees) Rules is attached as Schedule IV of the Codes.

15.3

~~(f) — Certificate~~

Each submission should be signed by the applicant and should close with a statement certifying the truth, accuracy and completeness of statements contained in the submission. When the application is filed by an adviser, the statement should confirm that the applicant has authorised the filing of the application by the adviser. Such statement does not relieve the adviser of its obligation to use all reasonable efforts to ensure that its client understands, and abides by, the relevant requirements of the ~~relevant~~Codes, and that the submission of its client is true, accurate and complete.

**16. Meetings ~~and hearings~~ of the Panel [New Section 13]**

**16.1** All ~~meetings of proceedings before~~ the Panel are informal and private. There are no rules of evidence. A verbatim record may be taken for the benefit of the Panel. The Panel directs its own proceedings and may make any inquiries it deems relevant or appropriate. Parties (i.e. the Executive and the other Parties to the proceedings) will be advised of the applicable procedural rules ~~applicable to the proceeding~~ in advance of the date set for the ~~meeting~~proceeding.

On the application of any party, the chairman of the relevant meeting sitting alone may give such procedural directions as he considers appropriate for the determination of a case.

16.2 A party is permitted to bring with it to a meeting ~~or hearing~~ its financial adviser and/or solicitor. The Panel would not normally allow more than two representatives of the financial adviser or of the solicitor to attend. A party may either present its own case to the Panel or it may have such case presented by its financial adviser on its behalf. If a party wishes to present its case in some other manner, the prior consent of the ~~Chairman~~ of the meeting is required, ~~which~~ Such consent will only be given in exceptional circumstances.

16.3 Normally, the parties should set out their case briefly in writing beforehand and the Executive will submit a written summary of the issues, together with its ruling or views. The parties are permitted to call such witnesses as they may feel necessary.

In general, all parties are entitled to be present throughout the ~~meeting~~ hearing and to see all papers submitted to the Panel. Occasionally, however, a party may wish to present evidence to the Panel which is of a confidential commercial nature. In such exceptional cases, the Panel may, if it is satisfied that such course is justified, be prepared to hear the evidence in question in the absence of some, or all, of the other parties involved. ~~Parties and the Executive are~~ The parties shall be absent during the Panel's deliberation on the case. Representations by shareholders may be presented in writing and are usually heard by the Panel in their ~~absence~~ of those shareholders.

16.4 The Panel recognises that its authority can only be sustained if its impartiality is beyond doubt. The SFC, in consultation with the Panel, has therefore adopted conflicts of interest guidelines for ~~the operation of~~ the Panel. Accordingly, where the Panel determines, by reference to such conflicts of interest guidelines, that a matter is likely to create a conflict of interest for any member of the Panel, that member may not attend the meeting and an alternate may be appointed. The parties ~~to a hearing~~ are expected to raise any related conflicts of interest concerns they might have at the earliest possible opportunity.

16.5 Following the conclusion of a ~~meeting~~ hearing, the Panel will inform the parties of its ruling and the reasons for ~~it~~ the ruling as soon as it ~~has~~ completes its deliberations. This will be confirmed to the parties in writing as soon as reasonably practicable and, subject to confidentiality considerations, will normally be published in accordance with section ~~[new 16; old 18]~~ of this Introduction below.

16.6 As ~~proceedings before meetings~~ of the Panel are private, none of the parties to the ~~meeting~~ proceedings, or persons appearing before the Panel, shall disclose any details of the ~~meeting~~ proceedings to any other person, including the media, and ~~such persons~~ shall not make use of any information acquired

during the course of the meetingproceedings for ~~any other~~ purposes other thansave those connected with the meetingproceeding itself.

**17. MeetingsHearings of the Takeovers Appeal Committee [New Section 15]**

**17.1** ~~Like the Panel, the Takeovers Appeal Committee directs its own proceedings and may make any inquiries which it considers relevant or appropriate. The Takeovers Appeal Committee will be guided in the way it conducts its proceedings by the procedural rules applicable to hearings of the Panel. Proceedings before the Takeovers Appeal Committee are generally conducted in a similar way to those before the Panel.~~

**17.2** In all cases, notice of appeal must be given within 5 business days of the delivery by the Panel of its written reasons for the decision in question. The Panel will normally suspend publication in full of its findings during this time, although an appropriate interim announcement, including the findings of fact, may be made. If there is no appeal, any publication by the Panel will follow immediately. If there is an appeal, publication is further suspended until the decision of the Takeovers Appeal Committee has been made.

**17.3** If an appeal is upheld, the appellant is consulted on the form of statement, if any, which is to be published. If an appeal is dismissed, normally the findings of the Panel will be published and any actions decided upon will be implemented. In either case, the Takeovers Appeal Committee may make any further comment it thinks fit.

**18. Publication of rulings [New Section 16]**

**18.1** Subject to confidentiality considerations, it is the policy of the Panel and the Takeovers Appeal Committee to publish their rulings, and the reasons for ~~them~~those rulings, so that their activities may be understood by the public. All rulings will normally be given to the parties as soon as possible following the conclusion of a meetinghearing. Rulings suitable for publication will then be reconstituted as written announcements and will be published as promptly as possible. In cases where the ruling is price sensitive, the announcement of the ruling will normally be published shortly after the conclusion of the meetinghearing and a further announcement giving the reasons for the ruling will be published as soon as practicable thereafter.

**18.2** None of the parties or persons appearing before the Panel or the Takeovers Appeal Committee shall make any announcement of a ruling before the public announcement by the Panel or the Takeovers Appeal Committee. Such parties or persons may comment on the ruling but no announcement by any of them may contain any information about the meetingproceedings, or make any reference to the text of the ruling or the reasons for it in terms other than those used in the public announcement issued by the Panel or the Takeovers Appeal Committee.

**18.3** Subject to confidentiality considerations, it is the policy of the Executive to publish its important rulings and interpretations of the Codes, and the reasons

for them, so that its activities may be understood by the public. ~~These~~There may be announcements of rulings in specific cases where ~~they~~the rulings are considered to have general application, or statements of policy which may take the form of Practice Notes setting out in ~~more~~greater detail the Executive's practice and interpretation ~~of part~~ of the Codes.

## **19. Co-operation with other authorities [New Section 17]**

**19.1** Information given to the Executive, the Panel or the Takeovers Appeal Committee will be treated in the strictest confidence. Because of the overriding importance of maintaining a fair market and ~~suppressing~~curbing improper activities, this information is made available to the SFC ~~to be held~~ subject to ~~its~~the SFC's own obligations of confidentiality laid down by the Securities and Futures Commission Ordinance (Cap. 24). Subject to those obligations, the SFC may from time to time give information received by it to other regulatory authorities, so that they can discharge their own duties. Conversely, the Executive may from time to time receive information from other regulatory bodies which is relevant to a matter then current. Co-operation with other regulatory authorities is regarded as an important part of the Executive's and the SFC's functions.

## **~~20.~~ Rulings**

~~20.1~~ For purposes of this Introduction the term "ruling" includes any ruling, waiver, consent, decision, confirmation or other determination made in writing under either Code by the Executive, the Panel or the Takeovers Appeal Committee.

## **~~21.~~ Transitional rules**

~~21.1~~ The General Principles and Rules of the Codes, and section 4 of this Introduction dealing with the jurisdiction of the Codes, shall apply to all takeovers, mergers and share repurchases announced on or after 1 April 1992.

~~21.2~~ Section 12 of this Introduction dealing with disciplinary proceedings, shall only apply in respect of acts or omissions which give rise to a breach of either Code which occur on or after 1 April 1992.

~~21.3~~ Subject to the foregoing, the administrative and procedural rules which constitute the balance of this Introduction shall apply to all takeovers, mergers and share repurchases, and to all acts or omissions which give rise to a breach of either Code or their predecessors, whenever they are announced or occur, respectively, effective 1 April 1992.

~~21.4~~ Should these transitional rules produce any difficulties the Executive should be consulted and will endeavour to agree a solution which is fair to all parties.