

## 11. Asset valuations

*N.B. All references in this Rule 11 to “the Guidance Note” are to “The Valuation of Property Assets - Guidance Note” published by The Hong Kong Institute of Surveyors.*

### 11.1 Disclosure of valuations

When valuations of assets ~~of either the offeror or offeree company~~ are given made in connection with an offer details of the valuations or an appropriate summary thereof must be included in the offer document, offeree board circular or other documents ~~circulated to the shareholders of the offeree company by its board. The valuations should be supported by the opinion of a named independent valuer.~~

### ~~11.2~~ Preparing valuations

~~The valuations must be carried out or confirmed by an independent, professionally qualified valuer or other expert and the basis of valuation clearly stated. The document should include a statement that the valuer or other expert has given and not withdrawn his consent to the issue of the document with the inclusion of the valuation in the form and context in which it is included.~~

### ~~11.3~~ Offeree board response

~~If the board of an offeree company considers that a valuation of its assets currently held is not appropriate, a statement to this effect together with the reasons should be included in the offer document or other document circulated to the shareholders of the offeree company by its board.~~

*Notes to Rule 11:*

#### (a) Type of asset

This Rule 11 applies not only to land, buildings and process plant and machinery but also to other tangible and intangible assets. Where the assets consist of securities listed on the Stock Exchange that are not suspended from trading, a separate valuation and consent letter will not be necessary if the valuation is carried out by a qualified accountant~~the auditors~~ or financial adviser to the company. In the case of securities listed on other exchanges, the Executive should be consulted.

Where it is proposed to give a valuation of assets, other than land and buildings, based on discounted cash flows or projections of profits, earnings or cash flows, the Executive must be consulted. Since it may be possible to derive a forecast of profits from such valuations, they will normally be regarded as if they were profit forecasts to which Rule 10

would apply. The Executive will normally only grant a waiver to allow such valuations to be given other than in accordance with Rule 10 in exceptional circumstances or where the predictability of cash flows is reasonably assured.

(b) The valuer

In relation to land and buildings, a valuer should be a corporate member of The Hong Kong Institute of Surveyors or some other person approved by the Executive.

In respect of other assets, the valuer should normally be the financial adviser to the relevant party in respect of the offer. The Executive may, in appropriate cases, accept a valuation by a suitably qualified and experienced professional valuer which is also reported on by the financial adviser. In such cases the valuer must be able to demonstrate to the satisfaction of the Executive that it and the personnel engaged in the valuation meet any legal or regulatory requirements which apply in the circumstances in which the particular valuation is required and that they have, in respect of the particular type of property or asset, sufficient current local and international (as appropriate) knowledge of the particular market and the skills and understanding necessary to undertake the valuation competently.

(c) In connection with an offer

In certain cases, offer documents, offeree board circulars or other documents will include statements of assets reproducing directors' estimates of asset values published with the company's accounts in accordance with the Listing Rules or the Tenth Schedule to the Companies Ordinance (Cap. 32), or in the case of companies incorporated outside Hong Kong, equivalent statutory requirements. The Executive will not regard such estimates as "given in connection with an offer" unless asset values are a particularly significant factor in assessing the offer and the estimates are, accordingly, given considerably more prominence in the offer documents, offeree board circulars or other relevant documents than merely being referred to in a note to a statement of assets in an appendix. In these circumstances, such estimates must be supported by an independent valuer in accordance with this Rule 11.

(d) Another party's assets

A party to a takeover transaction will not normally be permitted to issue a valuation, appraisal or calculation of worth of the assets owned by another party unless it is supported by the unqualified opinion of a named independent valuer and that valuer has had access to sufficient information to carry out a property valuation, appraisal or calculation of worth either in accordance with the Guidance Note or, in respect of

assets other than land and buildings, to appropriate standards approved by the Executive. Comments by one party about another's valuation, appraisal or calculation of worth of its own assets are unlikely to be permitted. In all cases, the Executive must be consulted in advance.

(e)2. Selective valuations not acceptable

Valuations of assets must not be prepared or presented on a selective basis unless the Executive accepts that special circumstances justify it. (See also Rule 11.6.)

(f)3. Companies with significant property interests

Except with the consent of the Executive, a valuation of properties by an independent professionally qualified valuer will be required in the case of an offer for a company with significant property interests and, in the case of a securities exchange offer, where the offeror company has significant property interests. As a general guide, this should be taken to refer to a company or group of companies, the book value of whose property assets or consolidated property assets, respectively, exceeds 15% of the book value of total assets or total group assets, as the case may be.

When the company or group of companies has significant property interests but the respective property assets or consolidated property assets represent less than 50% of the book value of its total assets or total group assets, as the case may be, a valuation of property assets held by its associated companies will not normally be required.

If the property assets or consolidated property assets, respectively, of a company or group of companies represent 50% or more of the book value of its total assets or total group assets, as the case may be, a valuation of the property assets held by the associated companies over which it exercises a significant degree of control will be required. Significant degree of control means a direct or indirect interest of 30% or more of the voting rights of a company.

(g)4. Companies with property situated in developing property markets

If the valuation of assets of either the offeree ~~offeror~~ company or ~~offeror~~ offeree company includes valuation of property in developing property markets, the Executive should be consulted to determine the extent to which the requirements of Practice Note 12 to the Listing Rules should apply.

5. — Property valuations

In relation to valuations of land and buildings attention is drawn to the "Hong Kong Guidance Notes on the Valuation of Property Assets"

*published by The Royal Institution of Chartered Surveyors (Hong Kong Branch) and The Hong Kong Institute of Surveyors.*

~~6. Another party's assets~~

~~A party to a takeover situation will not normally be permitted to issue a valuation, appraisal or calculation of worth of the assets owned by another party unless it is supported by the unqualified opinion of a named independent valuer and that valuer has had access to sufficient information to carry out a property valuation, appraisal or calculation of worth to appropriate standards approved by the Executive. Comments by one party about another's valuation, appraisal or calculation of worth of its own assets are unlikely to be permitted. In all cases, the Executive must be consulted in advance.~~

11.2 Basis of valuation

- (a) In any valuation of an asset or business the basis of valuation must be clearly stated. Only in exceptional circumstances should it be qualified and in that event the valuer must explain the meaning of the words used. The material assumptions made in a valuation must be stated in the valuation. These assumptions should be made taking into account the principles set out in the Notes to Rule 10.2.
- (b) In relation to valuations of land and buildings, attention is drawn to the Guidance Note. Special assumptions (see GN(HK) 1 of the Guidance Note) should not normally be made in a valuation but, if such assumptions are permitted by the Executive, they should be fully explained.
- (c) For non-specialised properties, the basis of valuation will normally be open market value as defined in the Guidance Note. A property which is occupied for the purposes of the business will be valued at existing use value. Where a property has been adapted or fitted out to meet the requirements of a particular business, the open market value should relate to the property after the works have been completed. Alternatively, the open market value may relate to the state of the property before the works had been commenced and the works of adaptation may be valued separately on a depreciated replacement cost basis, subject to adequate potential profitability. Specialised properties occupied by the business should be valued on a depreciated replacement cost basis, subject to adequate potential profitability. Properties held as investments or which are surplus to requirements and are held pending disposal should be valued at open market value.
- (d) In the case of land currently being developed or with immediate development potential, in addition to giving the open market value in the state existing at the date of valuation, the valuation should include:-

- (i) the value after the development has been completed;
- (ii) the estimated total cost, including carrying charges, of completing the development and the anticipated dates of completion and of letting or occupation; and
- (iii) a statement whether planning or other regulatory consent has been obtained and, if so, the date thereof and the nature of any conditions attaching to the consent which affect the value.

### 11.3 Potential tax liability

When a valuation is given in connection with an offer, there should normally be a statement regarding any potential tax liability which would arise if the assets were to be sold at the amount of the valuation, accompanied by an appropriate comment as to the likelihood of any such liability crystallising.

### 11.4 Current valuation

A valuation must state the effective date as at which the assets were valued and the professional qualifications and address of the valuer. If a valuation is not current, the valuer must state that a current valuation would not be materially different. If this statement cannot be made, the valuation must be updated.

*Note to Rule 11.4:*

*Effective date*

*The Executive will normally regard any valuation that is more than 3 months old as not current.*

### 11.5 Opinion and consent letters

#### (a) Standards of care

There are obvious hazards attached to the valuation of an asset or business; this should in no way detract from the necessity of maintaining the highest standards of accuracy and fair presentation in all communications to shareholders in an offer. A valuation must be made with due care and consideration by the valuer or financial adviser making the valuation.

#### (b) Publication of opinion

The opinion of value must be contained in the document containing the asset valuation. In the case of a property valuation, the document containing the valuation must contain a summary of the valuation setting

out the address sufficient to identify each property and the valuation of each property.

(c) Consent

The document must also state that the valuer has given and not withdrawn its written consent to the publication of its valuation report.

(d) Valuation certificate to be on display

Where a valuation of assets is given in any document addressed to shareholders, the full valuation report must be made available for inspection, in the manner described in Note 1 to Rule 8, together with an associated report or schedule containing details of the aggregate valuation. Where the Executive is satisfied that such disclosure may be commercially disadvantageous to the company concerned, it may consent to the report or schedule appearing in a summarised form.

**11.6 Waiver in certain circumstances**

In exceptional cases, certain companies, in particular property companies, which are the subject of an unexpected offer may find difficulty in obtaining, within the time available, the opinion of an independent valuer to support an asset valuation, as required by this Rule 11, before the offeree board circular has to be sent out. In such cases, the Executive may be prepared exceptionally to waive strict compliance with this requirement. The Executive will only do this where the interests of shareholders seem on balance to be best served by permitting informal valuations to appear coupled with such substantiation as is available. Advisers to offeree companies who wish to make use of this procedure should consult the Executive at the earliest opportunity.

Note to Rule 11:

Independent valuer

For the purposes of this Rule 11, an “independent valuer” means a valuer who meets the requirements of an “external valuer” as defined in GN(HK) 3 of the Guidance Note and, in addition, has no material connection with other parties to the transaction. The independent valuer must also meet the requirements of the Listing Rules.