

Takeovers Executive of the SFC publicly censures China Life Insurance (Overseas) Company Limited in relation to breaches of the dealing disclosure requirements in Rule 22 of the Takeovers Code

Disciplinary action against China Life Insurance (Overseas) Company Limited

1. The Executive¹ publicly censures China Life Insurance (Overseas) Company Limited (“**China Life**”) for breaching Rule 22 of the Code on Takeovers and Mergers (“**Takeovers Code**”) as a result of its failure to disclose its dealings in the shares of Glorious Property Holdings Limited (“**Glorious Property**”) between 9 May and 5 August 2016. China Life accepts that it breached the Takeovers Code and agreed to the disciplinary action taken against it under section 12.3 of the Introduction to the Takeovers Code.
2. At all relevant times China Life held more than 5% of Glorious Property’s issued share capital.

Background and relevant provisions of the Takeovers Code

Background

3. China Life is an insurance company principally engaged in the provision of life insurance, investment and provident fund services. China Life has an investment department (“**Investment Department**”) which manages and trades in a limited number of Hong Kong-listed securities which are beneficially owned by China Life.
4. On 4 March 2015, an offer period commenced for Glorious Property when it announced a possible privatisation by its controlling shareholder, Best Era International Limited (“**Rule 3.7 Announcement**”). The Rule 3.7 Announcement contained a clear reminder to Glorious Property’s “associates” (as defined in the Takeovers Code) that they should disclose their dealings in Glorious Property’s securities in accordance with Rule 22 of the Takeovers Code.

Rule 22

5. Rule 22.1(a) of the Takeovers Code provides that “[d]ealings in relevant securities by an offeror or the offeree company, and by any associates, for their own account during an offer period must be publicly disclosed in accordance with Notes 5, 6 and 7 to this Rule 22.”
6. The Takeovers Code defines an “associate” to include “a person who owns or controls 5% or more of any class of relevant securities ... issued by an offeror or the offeree company, including a person who as a result of any transaction owns or controls 5% or more.”
7. Immediately prior to the commencement of the offer period, China Life held 10.31% of the issued share capital of Glorious Property. Given that China Life held over 5% of Glorious Property’s issued share capital at all relevant times, it was Glorious Property’s associate and was required under Rule 22 of the

¹ The Executive refers to the Executive Director of the SFC’s Corporate Finance Division or any delegate of the Executive Director.

Takeovers Code to disclose publicly its dealings in Glorious Property's securities during the offer period.

Breaches of Rule 22 of the Takeovers Code

8. Between 9 May and 5 August 2016, China Life (through two brokers) executed 2,139 trades in Glorious Property's shares, decreasing its shareholding in Glorious Property from 10.31% to 9.75% ("**Relevant Dealings**"). China Life made relevant disclosures under Part XV of the Securities and Futures Ordinance. However, it failed to file disclosures in respect of the Relevant Dealings in accordance with Rule 22 of the Takeovers Code.
9. The Executive became aware of China Life's dealings in Glorious Property's shares during the offer period as a result of China Life's disclosures under Part XV.
10. China Life explained that the Relevant Dealings were carried out by members of the Investment Department who were unaware of the requirements of the Takeovers Code.

Apology by China Life and remedial action taken

11. China Life sincerely apologised for the oversight of the dealing disclosure requirements in the Takeovers Code and emphasised that it takes the non-compliance seriously.
12. China Life is implementing a number of remedial measures to address the shortcomings and to ensure future compliance with the Takeovers Code, including the following:
 - (a) China Life has recruited a compliance officer for the Investment Department. The Investment Department will refrain from trading in all securities listed in Hong Kong until adequate compliance systems are in place;
 - (b) China Life has engaged a law firm:
 - (i) to provide training to the Investment Department on, amongst others, the disclosure requirements in Rule 22 of the Takeovers Code, and this training was completed on 25 April 2017; and
 - (ii) to provide written advice on regulatory and compliance questions in relation to China Life's proprietary trades on an ad-hoc basis upon China Life's written request;
 - (c) China Life has engaged an accounting firm to prepare a compliance manual for its proprietary trading in securities listed in Hong Kong;
 - (d) China Life now regularly reviews and checks the Offer Period Table on the SFC's website and relevant issuers' announcements on The Stock Exchange of Hong Kong Limited's (Exchange) website; and
 - (e) China Life has subscribed to relevant alerts from the SFC and the Exchange (including the *Takeovers Bulletin*).

Executive's comments

13. The disclosure obligations in Rule 22 of the Takeovers Code are intentionally onerous to reflect the fact that a high degree of transparency is essential to the efficient functioning of the market in an offeree company's shares and/or offeror company's shares in the case of a securities exchange offer during the critical period of an offer or possible offer. Timely and accurate disclosure of information in relation to dealings by an offeree company's or an offeror company's associates including their advisers plays a fundamental role in ensuring that takeovers are conducted within an orderly framework and that the integrity of the markets is maintained. This is in line with General Principle 6 which provides that:

"All persons concerned with offers should make full and prompt disclosure of all relevant information and take every precaution to avoid the creation or continuance of a false market. Parties involved in offers must take care that statements are not made which may mislead shareholders or the market."

14. Whilst the Executive recognises China Life's cooperation in relation to its review of this matter, the Executive considers the breaches merit the present disciplinary action. The fact remains that during the relevant period, China Life failed to report multiple dealings in breach of Rule 22 and General Principle 6. China Life accepts that the breaches suggest material deficiencies in its compliance systems and that adequate systems should have been in place to prevent the breaches. To ensure future compliance with the Takeovers Code, China Life has undertaken to provide the Executive with updates on the progress of the implementation of the remedial measures it is putting in place.
15. The Executive wishes to take this opportunity to remind practitioners and parties who wish to take advantage of the securities markets in Hong Kong that they should conduct themselves in matters relating to takeovers and mergers in accordance with the Takeovers Code and particularly, associates with a 5% or more interest in the offeree company or offeror company must report their dealings in the offeree company (or offeror company in the case of a securities exchange offer) during an offer period in accordance with Rule 22 of the Takeovers Code. In case of doubt as to the application of Rule 22, the Executive should be consulted.

3 August 2017