



Takeovers Bulletin

Highlights

- Public criticism of Cheung Chi Shing for breaching the Takeovers Code
- New Practice Note 25
- Retirement of Mr Stephen Clark from the Panel
- Appointments and reappointments to takeovers-related committees
- Quarterly update on the activities of the Takeovers Team

Public criticism of Cheung Chi Shing for his failure to obtain regulatory approval before triggering a mandatory general offer obligation

On 28 March 2023, we publicly criticised Cheung Chi Shing for his failure to obtain regulatory approval before triggering a mandatory general offer obligation for Styland Holdings Limited, in breach of the Takeovers Code.

Cheung acquired 30,623,172 shares or about 4.32% of the shareholding interest in Styland Holdings Limited on 5 July 2022. Upon the completion of these acquisitions, Cheung and his concert parties' aggregate shareholding in Styland increased from 27.52% to 31.84%, triggering an obligation to make mandatory conditional general offers for all of Styland's shares and outstanding convertible bonds.

Four subsidiaries of Styland are licensed corporations under the Securities and Futures Ordinance (SFO). In the event the mandatory general offer became unconditional, Cheung and his concert parties would hold more than 35% of Styland's shares and would be new substantial shareholders of the four licensed corporations. Under Section 132 of the SFO, a person shall not become and continue to be a substantial

shareholder of a licensed corporation without first being approved by the SFC. However, in this case the SFC's approval was not obtained.

Cheung accepted that he was in breach of Note 4 to Rule 26.2 of the Takeovers Code which requires an offeror to obtain all relevant regulatory approvals before triggering an obligation to make a general offer. Cheung and his concert parties have taken remedial measures to make the general offer after obtaining regulatory approval and Cheung agreed to the disciplinary action against him.

A copy of the Executive Statement dated 28 March 2023 can be found in the "[Regulatory Functions – Corporates – Takeovers and mergers – Decisions and statements – Executive decisions and statements](#)" section of the SFC website.

Practitioners and parties who wish to take advantage of the securities markets in Hong Kong are reminded that they should conduct themselves in accordance with the Codes on Takeovers and Mergers and Share Buy-backs (the Codes). This includes seeking professional advice as needed. Professional advisers should ensure that their clients understand and abide by the Codes. If there is any doubt about the application of the Codes, the Executive should be consulted at the earliest opportunity.

New Practice Note 25 on the application of the Codes on Takeovers and Mergers and Share Buy-backs

On 17 March 2023, we published a new Practice Note 25 (PN25) on the application of the Codes on Takeovers and Mergers and Share Buy-backs and other matters relating to offers for A and H shares of a listed issuer in the light of Mainland China's new regulations for overseas listings which took effect on 31 March 2023.

PN25 can be found in the "Regulatory functions – Corporates – Takeovers and mergers – Practice Notes" section of the SFC website.

Retirement of Mr Stephen Clark from the Panel

Mr Stephen Clark retired from his role as Deputy Chairman of the Takeovers and Mergers Panel on 31 March 2023. We would like to express our deepest gratitude to Mr Clark for his dedicated service and distinguished contributions to the Panel for more than 30 years, including serving as Deputy Chairman of the Panel from 2004 to 2009 and 2021 to 2023, and as Chairman from 2009 to 2021. During his tenure, Mr Clark chaired a number of landmark Panel decisions and provided unparalleled leadership in Panel meetings with his experience, acumen and wit.

Appointments and reappointments to takeovers-related committees

We welcome the following appointments and reappointments of members to the Takeovers and Mergers Panel, the Takeovers Appeal Committee (Appeal Committee) and the Disciplinary Chair Committee with effect from 1 April 2023:

Panel and Appeal Committee

New appointment – Mr Lo Samson Lambert

Reappointments – Mr Chan Yuk Sing, Freeman, Mr Webb David Michael, Ms Bidlake Alexandra, Mr Clark Stephen John, Mr Ip Koon Wing, Ernest, Mr Liu Yun Bonn, Ms Park Yoo-Kyung, Mr Shah Asit Sudhir, Mr Wong Wai Ming, Mr Woo Ka Biu, Jackson, and Mr Yuen Ka Fai (alias: Frank Yuen)

Disciplinary Chair Committee

New appointment – Ms Lam Yan Kay, Rachel, SC

Full list of members of takeovers-related committees

Members are appointed for a term of two years until 31 March 2025 unless otherwise stated. The membership lists for the Panel, Appeal Committee, Disciplinary Chair Committee and the Nominations Committee are set out below.

Panel

The Panel hears disciplinary matters in the first instance, reviews rulings by the Executive¹ at the request of any party dissatisfied with such a ruling and considers novel, important or difficult cases referred to it by the Executive. It also reviews, upon request by the SFC, the provisions of the Codes and the Rules of Procedure for hearings under the Codes, and recommends appropriate amendments to the Codes and Rules to the SFC.

Chairman

Mr Chan Yuk Sing, Freeman

Deputy Chairmen

Ms Ko Teresa Yuk Yin, JP*

Ms Lam Chor Lai, Celia*

Mr Maguire John Martin*

Mr Schwille Mark Andrew*

Mr Webb David Michael

Ms Yu Ka Po, Benita*

Members

Ms Bidlake Alexandra

Mr Chan Che Chung (alias: Conrad Chan)*

Ms Charlton Julia Frances*

Mr Clark Stephen John

Mr Ip Koon Wing, Ernest

Mr Lee Kam Hung, Lawrence, BBS, JP*

Ms Leung Po Wah, Pauline*

Mr Liu Yun Bonn

Mr Lo Samson Lambert

Mr Norman David Michael*

Mr Norris Nicholas Andrew*

Ms Park Yoo-kyung

Mr Sabine Martin Nevil*

Mr Shah Asit Sudhir

Mr Tye Philip Andrew*

Mr Winter Richard David*

Mr Wolhardt Julian Juul*

Mr Wong Richard*

Mr Wong Wai Ming

Mr Wong Yu Tsang, Alex*

Mr Woo Ka Biu, Jackson

Mr Yih Dieter, JP#

Mr Yuen Ka Fai (alias: Frank Yuen)

* Appointed/Reappointed on 1 April 2022 for a two-year term until 31 March 2024.

Appointed for the term from 1 January 2023 to 31 December 2024.

Appeal Committee

The 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. It comprises a Chairman who is a member of the Disciplinary Chair Committee and other members of the Panel who are selected on a case-by-case basis.

1 The Executive Director of the SFC's Corporate Finance Division or his delegate.

Disciplinary Chair Committee

Members are nominated by the Nominations Committee on the basis that they are duly experienced senior counsels. Their role is to act as Chairman of the Panel in disciplinary proceedings under the Codes or of the Appeal Committee on a case-by-case basis.

Members

Mr Jat Sew-Tong, SC, JP[#]
Ms Lam Yan Kay, Rachel, SC
Mr Man Bernard, SC*
Mr Maurellet José-Antonio, SC*
Mr Shieh Wing Tai Paul, SC[#]
Mr Wong Man Kit, Anson, SC[#]

[#] Appointed for the term from 1 April 2022 to 31 March 2024.

* Appointed for the term from 21 July 2022 to 20 July 2024.

Nominations Committee

The Nominations Committee nominates members of the Panel, Appeal Committee and Disciplinary Chair Committee.

Ex officio Members

Ms Leung Fung Yee, Julia, SBS, JP (Chairman)
Mr Chan Yuk Sing, Freeman
Mr Duignan, Michael

Members

Mr Lui Tim-leung Tim, SBS, JP*
Mr Dawes Victor, SC*

* Appointed for the term from 1 April 2022 to 31 March 2024.

Alternate members to Mr Chan Yuk Sing, Freeman are Ms Ko Teresa Yuk Yin, JP, Ms Lam Chor Lai Celia, Mr Maguire John Martin, Mr Schwille Mark Andrew, Mr Webb David Michael and Ms Yu Ka Po Benita.

A full list of members of the Panel, Appeal Committee, Disciplinary Chair Committee and Nominations Committee can be found in the "Regulatory functions – Corporates – Takeovers and Mergers – Takeovers Panel and related committees" section of the SFC website.

Quarterly update on the activities of the Takeovers Team

In the three months ended 31 December 2022, we received 13 takeovers-related cases (including privatisations, voluntary and mandatory general offers and off-market and general-offer share buy-backs), seven whitewashes and 61 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 – Newsletters – Takeovers Bulletin' on the SFC website at www.sfc.hk.

Feedback and comments are welcome and can be sent to takeoversbulletin@sfc.hk.

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