

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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Season's Greetings

We wish all readers a wonderful and healthy 2018!!

The Executive publicly censures Zhang Qiang for breach of the Takeovers Code

On 20 December 2017, we publicly censured Zhang Qiang for acquiring shares in Feishang Non-metal Materials Technology Limited within six months after the close of an offer at above the offer price in breach of Rule 31.3 of the Takeovers Code¹.

On 24 May 2017, Zhang made an unconditional mandatory general offer in cash for the shares of Feishang Non-metal Materials at \$0.70 per share. The offer closed on 14 June. On 25 July, Zhang made a series of on-market acquisitions of a total of 2,000,000 shares at prices ranging from \$1.47 to \$1.50 per share. After becoming aware of the breach of the Takeovers Code, Zhang sold all 2,000,000 shares on-market on 24 October, making a profit of \$478,000 which Zhang donated to a charity on 18 December.

Zhang submitted that the breach was not intentional. He has accepted that he breached Rule 31.3 and agreed to the current disciplinary action taken against him.

We wish to remind all those involved in takeovers and mergers in Hong Kong of the prohibition imposed by Rule 31.3. The rule provides shareholders with certainty that an offeror will not pay a price higher than the offer price for the shares in the offeree company in the six-month period after the close of an offer. As a result, it ensures that all shareholders of the offeree company are afforded equality of treatment in an offer as enshrined in General Principle 1 of the Codes on Takeovers and Mergers and

¹ Rule 31.3 of the Takeovers Code prohibits a person and his concert parties from buying shares at prices higher than the offer price within six months after the end of the offer period.

Highlights

- Season's Greetings
- Public censure of Zhang Qiang for breaches of dealing restrictions
- Reminder to submit filing forms for applications
- Quarterly update on Takeovers Team activities

Share Buy-backs. If there is any doubt about the application of the Takeovers Code, we should be consulted at the earliest opportunity.

A copy of the Executive Statement dated 20 December 2017 can be found in the “Regulatory functions – Listings & takeovers – Takeovers & Mergers – Decisions & statements – Executive decisions and statements” section of the SFC website.

Reminder to submit filing forms for applications under the Codes

On 15 September 2016, the Executive gazetted a new filing form for all applications for rulings made under section 8 of the Introduction to the Codes. Since 16 September 2016, all applications for rulings are required to be submitted together with duly completed filing forms². In recent months, a number of applicants and their advisors failed to file the forms together with ruling applications.

We would like to remind market practitioners that each ruling application must be accompanied by a duly completed and signed filing form which is available on the SFC’s website. Failure to submit the requisite form will result in the return of an application and unnecessary delay.

Quarterly update on the activities of the Takeovers Team

In the three months ended 30 September 2017, we received 16 takeovers-related cases (including privatisations, voluntary and mandatory general offers and off-market and general-offer share buy-backs), 12 whitewashes and 80 ruling applications.

² See Issue No. 38 (September 2016) of the *Takeovers Bulletin*.

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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