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17 December 2007

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**Attention: Supervision of Markets Division**

Dear Sirs

### Comments on the Consultation Paper on the Proposal to Mandate Electronic Submission of Disclosure of Interests Notices

I am writing to give this firm's comments on the Consultation Paper on the Proposal to Mandate Electronic Submission of Disclosure of Interests Notices, released by the SFC in November 2007.

We do not in general oppose a move towards electronic submission of documents and accept that this is a necessary step in the continuing modernisation of the regulatory environment in Hong Kong. However, there are a number of factors which, from a practitioner's point of view, cause us to conclude that electronic submission is not currently appropriate for disclosure of interest forms. In this context, it is important to recognise that Part XV, SFO is notoriously difficult to apply in practice. This, coupled with the serious (criminal) sanctions for making a statement which is false or misleading (or for being reckless as to whether it is so) creates a need for a filing system which has some level of in-built flexibility. We feel that the current system provides this flexibility in two ways:

- (1) The ability to complete DI forms in manuscript (i.e. in free text) gives the freedom to disclose complex matters which may fall outside those for which the form was originally designed.
- (2) The typical one to two day delay in uploading gives the opportunity to clarify any difficult or erroneous filings if the need arises.

By way of an example, the e-submission version of Box 14 on Form 1 contains a built in validation check which prevents the disclosure of a share subscription where the subscription price is denominated in US\$, but the share price is denominated in HK\$. Under the current system, an anomaly such as this would in practice be dealt with by submitting the form in manuscript to the Exchange with the two different currencies shown, and discussing with the Exchange the correct method of addressing the issue. This procedure gives the filer comfort that the disclosure was correctly made, despite system inadequacies. Furthermore, it enables the Exchange to become aware of those parts of the electronic form which fail satisfactorily to address transaction realities.

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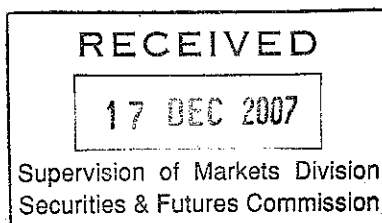
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## SFC (Electronic Submission of DI Notices)

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We believe that difficulties in completing the electronic form account at least in part, for the overwhelming preference for submitting manuscript forms by fax. We would not therefore advocate a switch to mandatory electronic filing of DI forms until there has been a thorough review of the electronic forms to deal with issues such as that described above. Even then, we feel that because of the severe sanctions for breach, the SFC should give substantial shareholders, directors and chief executives the option to make manuscript filings (perhaps in addition to requiring mandatory electronic filings), with an expectation that this option would only be exercised for complex or unusual disclosures. This approach would significantly reduce the number of manuscript filings and free up the Exchange to deal with complex filings more expeditiously.

Naturally, any decision to proceed with mandatory electronic filing of DI forms needs to take into account the possibility of system failure and the impact of this on the liability of the filer under the SFO. It is not acceptable that a DI filer could be found criminally liable for failure to submit as a result of matters outside his immediate control (including the failure of his own computer system or that of the Exchange). Linked to this is the need for an immediate electronic acknowledgement of receipt on making a successful filing.

Notwithstanding the views expressed above, we have responded to the specific questions raised in the Consultation Paper:

Q1: Whether we support Option B(2) as the model for mandating electronic filing of DI notices or if there are any reasons as to why the proposed model Option B(2) should not be adopted.

We support the view that Option B(2) is realistically the best method of dealing with filing of DI forms. This model should be capable of working whether or not the filing is made electronically.

Q2: Whether we support retaining the Existing Approach in relation to publication of DI notices on HKEX's website until such time when HKEX changes its practice on publication of price sensitive information during market trading hours or if there are any reasons that the Existing Approach should not be retained.

The Existing Approach is in our view preferable. Given that there is already a delay of three business days from the event that gives rising to the Part XV disclosure until it is disclosed publicly, we not believe the Straight-through Approach provides any material advantage for investors.

Q3: Whether there is a need to lessen specific requirements on registers of interests and short positions kept by listed corporations and give suggestions on how this can proceed.

In general, we support the removal of the specific requirements of the SFO relating to maintenance of registers by listed companies. It is not necessary for a listed company to be required to maintain registers for public inspection when the information in them is available on-line. Furthermore, since the listing rules impose appropriate obligations on listed companies with regard to the quality and extent of the information contained in their annual reports, it does not seem necessary to make any specific provision at all with regard to internal record-keeping of DI information. Removal of the obligation would go a long way to simplifying what is currently a particularly complex regime.

Yours sincerely



Catherine Copping