

RESPONSE TO THE CONSULTATION PAPER ON

**(1) PROPOSAL TO STOP COMMENTING ON ROUTINE
ANNOUNCEMENTS UNDER THE CODES ON TAKEOVERS AND
MERGERS AND SHARE REPURCHASES**

AND

(2) PROPOSED MISCELLANEOUS AMENDMENTS TO THE CODES

21 APRIL 2010

INTRODUCTION

This is a submission by Macquarie Capital (Hong Kong) Limited (**Macquarie**) in response to the '*Consultation Paper on proposal to stop commenting on routine announcements under the Codes on Takeovers and Mergers and Share Repurchases and (2) proposed miscellaneous amendments to the Codes*' dated 21 April 2010 (the **Consultation Paper**) issued by the Securities and Futures Commission (the **SFC**). Capitalised terms used but not otherwise defined herein have the same meanings as ascribed to them in the Consultation Paper.

RESPONSES

Question 1: *Do you agree that the Executive should stop commenting on certain routine announcements as listed in paragraph 6 above?*

Response: Yes, Macquarie views this as a positive development.

Question 2: *If your answer to Question 1 is yes, do you agree with the proposed amendments to Rule 12.1 and Note 2 to Rule 12 as well as the introduction of a new Note to Rule 12.1?*

Response: Yes.

Question 3: *Do you have any comment on the draft Practice Note (attached as Appendix 2)?*

Response: Macquarie believes that many market practitioners still use paper copies of the Codes (for example, at meetings with clients). As such, Macquarie suggests that the SFC considers including the Post-Vet List as an appendix or other addendum which forms part of the Codes, including paper copies thereof.

Question 4: *Do you agree with the proposed changes to section 16.1 of the Introduction to the Codes?*

Response: Macquarie supports the proposed deletion in the first sentence of Section 16.1 in the Introduction.
However Macquarie believes that, as currently drafted, the remainder of Section 16.1 functions as intended without further amendment. It takes sufficient account of price-sensitivity and commercial sensitivity whilst allowing the Panel discretion to publish promptly. If there were a concern that Panel rulings are delayed too long due to commercial sensitivity (rather than price sensitivity), the approach of the UK Takeover Code could be considered, namely, allowing publication of rulings to proceed but with confidential or commercially sensitive material redacted. This is an amendment that Macquarie would welcome.

Question 5: *Do you agree with the proposal to clarify that negative statements should be made if any of the disclosures required under paragraphs (c) to (h) of Rule 3.5 is not applicable?*

Response: Yes.

Question 6: *Do you agree that the final paragraph of each of Notes 1 and 2 to Rule 8 should be deleted as proposed?*

Response: Yes.

Question 7: *Do you agree that references to “press” in Rule 10.2, Rule 10.4 and Note 6(a) to Rule 22 should be deleted as proposed?*

Response: Yes.

Question 8: *Do you agree with the proposed amendments to Rule 10.7, paragraph 12(a)(i) of Schedule I, paragraph 6(a)(i) of Schedule II and paragraph 16(a)(i) of Schedule III?*

Response: Yes.

Question 9: *Do you agree with the proposed amendments to Rule 19.1?*

Response: Yes.

Question 10: *Do you agree with the proposed amendment to Rule 22.1(b)(ii)?*

Response: Yes, except Macquarie suggests that, for clarity, the SFC considers replacing the words “*in addition to disclosing privately*” with “*and not privately*”.

Question 11: *Do you agree with the proposed amendments to Note 6 to Rule 22?*

Response: Yes.

Question 12: *Do you agree with the proposal to clarify Note 5 to Rule 23.1?*

Response: Yes, Macquarie views this as a helpful clarification.

Question 13: *Do you agree that Rule 26.7 should be deleted?*

Response: Yes.