

# Listings and takeovers

## Listing policy

On 15 September, the SFC and The Stock Exchange of Hong Kong Limited (SEHK) issued conclusions to their joint consultation on proposed enhancements to SEHK's decision-making and governance structure for listing regulation.

Amongst other matters, the conclusions paper clarifies the role of the SFC as the statutory regulator which administers the Securities and Futures Ordinance (SFO) and the Securities and Futures (Stock Market Listing) Rules (SMLR), and which supervises, monitors and regulates the activities carried on by SEHK. In tandem with our new, front-loaded regulatory approach, this role has evolved to increase our direct presence when dealing with the more crucial listing matters which fall within the scope of the SMLR or the SFO.

The conclusions paper also clarifies SEHK's role as the regulator administering the Listing Rules<sup>1</sup>.

A new Listing Policy Panel will be established as an advisory, consultative and steering body outside the SFC and SEHK to initiate and centralise discussion of listing policies with broader regulatory or market implications.

In July, we published the first issue of the *SFC Regulatory Bulletin: Listed Corporations*, providing guidance on how we perform some of our functions under the SMLR and the SFO in relation to listed corporations and other listing matters.

## IPO applications

Under the dual filing regime, we reviewed 110 new listing applications during the quarter, up 27.9% from 86 in the previous quarter and 31% from 84 in the same quarter last year. This was another record high since the regime commenced in 2003.

During the quarter, we issued five "letters of mindedness to object" (LOMs) to listing applicants directly<sup>2</sup>. Subsequently, we issued final decision notices to object<sup>3</sup> to two of these applicants because their responses to the LOMs failed to address our concerns. Of the other three, one was withdrawn and two either lapsed or did not proceed.

During the quarter, one listing application was returned and an eight-week moratorium<sup>4</sup> was imposed because the relevant application proof was not substantially complete.

## Corporate conduct

We conduct a daily review of corporate announcements under the statutory corporate conduct and inside information disclosure provisions. In 26 cases during the quarter, we felt it appropriate to issue section 179<sup>5</sup> directions to gather additional information. The underlying concerns were varied and included whether a corporate action had been conducted in a manner which is oppressive or unfairly prejudicial to shareholders.

## Electronic disclosure of interests notices

As of 3 July, disclosure of interests notices must be submitted via Hong Kong Exchanges and Clearing Limited's electronic filing system<sup>6</sup>. A three-month transitional period was provided to enable a smooth transition and minimise potential issues with using the new system.

<sup>1</sup> SEHK will be the primary front-line regulator and will remain the contact point for all listing applications save in respect of concerns raised by the SFC under the SMLR.

<sup>2</sup> The SFC may object to a listing of securities based on one or more of the grounds set out in section 6(2) of the SMLR. An LOM sets out the substantive concerns of the SFC along with detailed reasons.

<sup>3</sup> The SFC's decision to object to a listing of securities under section 6(2) of the SMLR is subject to review by the Securities and Futures Appeals Tribunal upon application.

<sup>4</sup> The applicant can only submit a new listing application with a new application proof no less than eight weeks after the return.

<sup>5</sup> Section 179 of the SFO gives the SFC the power to compel the production of records and documents from persons related to a listed company.

<sup>6</sup> The mandatory electronic filing provisions under Part XV of the Securities and Futures Ordinance (SFO) commenced on 3 July.

## Listings and takeovers

### Takeovers matters

In August, we publicly censured and imposed a 24-month cold shoulder order against Yeung Wing Yee for breaching the Takeovers Code<sup>7</sup>. Yeung failed to make a mandatory general offer when he bought over 30% of the shares of Union Asia Enterprise Holdings Limited in July 2016, depriving Union Asia's shareholders of the right to receive an offer.

Also in August, we publicly censured China Life Insurance (Overseas) Company Limited for breaching the dealing disclosure requirements under the Takeovers Code during the privatisation of Glorious Property Holdings Limited. China Life failed to disclose 2,139 trades in the shares of Glorious Property when it was an associate holding more than 5% in the company.

In September, we publicly censured Chen Chi-Te and Kenneth C.M. Lo (both directors of Taiwan Cement

Corporation) for breaching the dealing provisions under the Takeovers Code during the proposed privatisation of TCC International Holdings Limited by Taiwan Cement.

Following a judicial review<sup>8</sup> hearing in September, the High Court of Hong Kong quashed the Takeovers Panel's April ruling that an application for a whitewash waiver in connection with Television Broadcasts Limited's (TVB) share buy-back offer should be granted subject to a majority of votes cast in favour of a shareholders' resolution to approve the offer (without adjustment), and the whitewash waiver should not be put before TVB's shareholders for a separate vote. The court also declared that provisions of the Broadcasting Ordinance apply to the shareholders' approval of the whitewash waiver. Other aspects of the Takeovers Panel's ruling, including the required disclosure of Young Lion Holdings Limited's shareholding structure, remain valid.

### Listing applications and takeovers activities

	Quarter ended 30.9.2017	Six months ended 30.9.2017	Six months ended 30.9.2016	YoY change (%)
Listing applications filed under the dual filing regime	110	196	155	26.5
Takeovers and share buy-back transactions	108	240	221	8.6

<sup>7</sup> The Code on Takeovers and Mergers.

<sup>8</sup> TVB applied to the court in May for leave to commence judicial review of the Takeovers Panel's decision.