



Quarterly Bulletin on Takeover Matters

(First Quarter 2016)

For the benefit of Takeovers Forum members, we have compiled various information and updates relating to takeover matters extracted from the official site of each Forum members. This bulletin will be published quarterly to serve as a centralized information hub on takeover matters.

(Please click on the title of each item to go to the full write-up at the original source)

SECURITIES & FUTURES COMMISSION, HONG KONG

[SFC publicly censures Goldman Sachs for breaches of the Takeovers Code](#)

The Securities and Futures Commission has publicly censured Goldman Sachs (Asia) L.L.C. for breaches of the Code on Takeovers and Mergers whilst acting as a financial advisor to Wing Hang Bank, Limited in relation to a voluntary general offer for the bank.

[Public censure in relation to breaches of the Takeovers Code during the offer for Wing Hang Bank Limited](#)

Takeovers Executive of the SFC publicly censures Goldman Sachs (Asia) L.L.C. in relation to breaches of Rules 22, 21.5, 10 and Note 4 to Rule 8.1 of the Takeovers Code.

[Takeovers Bulletin \(Issue No. 36, March 2016\)](#)

- Trading suspensions should be kept to a minimum
- New Practice Note 21–Waivers under Note 6(a) to Rule 26.1
- Executive publicly censures Goldman Sachs for breaches of Takeovers Code
- Appointment and reappointments to the Takeovers Panel and related committees
- Quarterly update on the activities of the Takeovers Team

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

[ASIC publishes fourth report on corporate finance regulation](#)

ASIC has today published its fourth report on the regulation of corporate finance issues in Australia.

[Perth man charged with insider trading appears in court](#)

Mr Steven Robert Noske, of Perth, Western Australia, appeared in the Stirling Gardens Magistrates Court in relation to one count of insider trading contrary to sections 1043A & 1311(1) - *Corporations Act 2001*(Cth)

[Sydney man pleads guilty to insider trading](#)

33-year old Sydney man Fei Yu has pleaded guilty to insider trading in the District Court of New South Wales.

[You could have a share in \\$1.2 billion of unclaimed money](#)

The Australian Securities and Investments Commission today supported the call by the Hon Kelly O'Dwyer MP, Minister for Small Business and Assistant Treasurer, for Australians nationwide to do a quick and free search on ASIC's MoneySmart website to see if a share of \$1.2 billion of unclaimed money is theirs.

TAKEOVERS PANEL OF AUSTRALIA

[Panel Amends Guidance Note 13 Broker Handling Fees](#)

The Takeovers Panel today amended Guidance Note 13 on broker handling fees, to note that such fees appear to fall under the definition of 'conflicted remuneration' in the *Corporations Act 2001* (Cth) (the **Act**) and are therefore prohibited unless an exception applies. This follows the conclusion to the Australian Government's Future of Financial Advice reforms with the passage of the Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014 on 24 November 2015. Further information regarding the Panel's decision is included below.

[Appointment of Panel Members](#)

The Takeovers Panel notes the announcement by the Minister for Small Business and Assistant Treasurer of the reappointment of 8 members and the appointment of 6 new members to the Panel, for terms of 3 years commencing on 8 March 2016.

[Reasons for Decision: Investa Office Fund](#)

The Panel, Peter Day, Lee Dewhirst and Andrew Lumsden (sitting President), on an application on behalf of DEXUS Property Group made a declaration of unacceptable circumstances in relation to the affairs of Investa Office Fund. The application concerned issues of conflict management by the manager of IOF, voting by Morgan Stanley of units held in IOF, disclosure deficiencies in a document (the IOMH Document) issued by the holding company of IOF's responsible entity and manager, and incomplete substantial holder disclosure. The Panel declared the circumstances unacceptable and ordered further disclosure.

Reasons for Decision: ABM Resources NL

The Panel made a declaration of unacceptable circumstances in relation to the affairs of ABM Resources NL. The application concerned a non-renounceable rights issue. The Panel considered, among other things, that all reasonable steps to minimise the likely control effect of the rights issue on ABM had not been taken and ordered that ABM not proceed with the rights issue.

Reasons for Decision: Gulf Alumina Limited

The Panel, Richard Hunt (sitting President), Andrew Lumsden and Karen Phin, made a declaration of unacceptable circumstances in relation to the affairs of Gulf Alumina Limited. The application concerned an off-market scrip takeover offer by Metro Mining Limited for Gulf. The Panel considered that a letter to shareholders from Gulf and Gulf's target statement contained insufficient and misleading information regarding (among other things) the value of Gulf and shareholder intention statements. The Panel ordered corrective disclosure.

Reasons for Decision: Brisbane Markets Limited

The Panel, Rod Halstead, Peter Hay (sitting President) and Sarah Rennie, made a declaration of unacceptable circumstances in relation to the affairs of Brisbane Markets Limited. The application concerned an off-market takeover bid by Produce Markets Queensland Pty Ltd for Brisbane Markets. The Panel considered that the bidder's statement and supplementary bidder's statements contained information deficiencies and potentially misleading statements. The Panel declared the circumstances unacceptable and ordered the dispatch of a supplementary bidder's statement in a form approved by the Panel, withdrawal rights for accepting shareholders and orders relating to dispatch.

Reasons for Decision: Sedgman Limited

The Panel, James Dickson, Robert McKenzie and Sophie Mitchell (sitting President), declined to make a declaration of unacceptable circumstances in relation to the affairs of Sedgman Limited on the basis of further disclosure made. The application concerned a takeover offer for Sedgman by CGI and the deduction of the value of franking credits from the bid consideration and disclosure issues. CGI confirmed it would not deduct the value of franking credits and made further disclosure in a second supplementary bidder's statement.

Reasons for Decision: The President's Club Limited 02

The Panel, Peter Day (sitting President), Michelle Jablko and Ian Jackman SC, extended time for the application, obtained a court extension of time for a declaration, made a declaration and made orders. The application concerned the remittal of the proceedings in *The President's Club Limited* [2012] ATP 10 (first proceeding). In the first proceeding, two acquisitions of shares in July 2011 and March 2012 (with associated villa interests) were declared to give rise to unacceptable circumstances and the Panel ordered a voting, acquisition and disposal freeze on the acquired shares. The freeze was to be lifted if an unconditional bid on certain terms was made. No bid has been made. The first Panel's decision was set

aside by the Full Court of the Federal Court of Australia, on the basis of a procedural irregularity when the first Panel extended time without giving an opportunity for submissions, and the application was remitted to be heard and determined according to law (remittal proceeding). The remittal Panel considered the matter afresh and considered that each of the acquisitions in July 2011 and March 2012 gave rise to unacceptable circumstances. It ordered a voting freeze on shares in excess of 20% (after deducting from the calculation the shares subject to the freeze) and modified the application of item 9 of s611 (the 'creep' exemption) so as to allow future creep based on the reduced voting level.

SECURITIES AND EXCHANGE COMMISSION, THAILAND

[SEC files a criminal complaint against parties acquiring NMG shares with joint intention for company takeover](#)

The SEC has filed a criminal complaint with the Economic Crime Suppression Division of the Royal Thai Police (ECD Police) against (1) News Network Corporation PCL. (NEWS), previously named Solution Corner PCL. (SLC), (2) Polaris Capital PCL. (POLAR), previously named Wattana Capital PCL. (WAT), and (3) Siwasit Sainumphung, for collaborating their separate acquisitions of Nation Multimedia Group Public Company Limited (NMG) shares to achieve the mutual goal of business takeover.

MONETARY AUTHORITY OF SINGAPORE

[MAS Amends the Singapore Code on Take-Overs and Mergers](#)

The Monetary Authority of Singapore, on the advice of the Securities Industry Council, has issued a revised Code on Take-overs and Mergers pursuant to section 139(6) of the Securities and Futures Act.

[MAS takes Civil Penalty Action against Wong Teck Kui for Insider Trading](#)

The Monetary Authority of Singapore (MAS) has taken civil penalty action under the Securities and Futures Act (SFA) against Mr Wong Teck Kui for insider trading in the shares of Time Watch Investments Limited. Mr Wong has admitted to contravening section 219(2)(a) of the SFA and has paid MAS a civil penalty of \$110,000 without court action.

SECURITIES AND EXCHANGE BOARD OF INDIA

[Discussion paper on Brightline Tests for Acquisition of Control under SEBI Takeover Regulations](#)

This discussion paper seeks comments of the public for certain proposals related to Brightline Tests for Acquisition of 'Control' under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.