



Quarterly Bulletin on Takeovers Matters

(Third Quarter 2017)

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 member. 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)

NEW ZEALAND TAKEOVERS PANEL

[Scheme of Arrangement & Amalgamations Guidance Note \(30 August 2017\)](#)

Schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993 (“schemes”) are statutory Court-approved procedures that allow the reorganisation of the rights and obligations of shareholders and companies. Schemes involving Code companies are regulated under sections 236A and 236B of the Companies Act. The Section 236A and 236B schemes provisions were introduced to better align the schemes procedure under the Companies Act with the protections for shareholders under the Takeovers Code. The schemes provisions also align New Zealand’s Code company reconstruction law more closely with the Australian regime.

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

[Securities and Exchange Commission of Pakistan notifies Listed Companies \(Substantial Acquisition of Voting Shares and Takeovers\) Regulations, 2017](#)

7 August 2017 - The Securities and Exchange Commission of Pakistan (SECP) after due process of law including comprehensive consultation with the stakeholders and taking into consideration the objections and suggestion received on draft regulations notified on December 2, 2016, has notified Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Regulations, 2017. These Regulations have replaced Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Regulations, 2008.

SECURITIES INDUSTRY COUNCIL (SINGAPORE)

Takeovers Bulletin - Issue No. 3 - July 2017

The issue highlights amendments made to the Practice Statement on the Opinion Issued by an Independent Financial Advisor (IFA) in Relation to Offers, Whitewash Waivers and Disposal of Assets under the Singapore Code on Take-Overs and Mergers (IFA Practice Statement) in relation to “not fair but reasonable” opinions. It also discusses the information to be made available to a competing offeror under Rule 9.2 of the Singapore Code on Take-Overs and Mergers (Code), and some points to note when consulting the Secretariat. Finally, a significant change in the balance between the shareholdings in a concert party group may trigger a mandatory offer. The SIC sets out one of the circumstances that is likely to be regarded as a significant change in the balance between the shareholdings in the concert party group in Note 5 on Rule 14.1 of the Code.

SECURITIES & FUTURES COMMISSION, HONG KONG

Takeovers Bulletin - Issue No. 42 - Sept 2017

The SFC’s Takeovers Bulletin is a newsletter to help participants in Hong Kong’s financial markets better understand the Codes on Takeovers and Mergers and Share Buy-backs.

In September 2017, the SFC highlighted the following matters in its newsletter:

- Cold shoulder order imposed on Yeung Wing Yee for breach of mandatory offer requirement
- Public censure of Chen Chi-Te and Kenneth C.M. Lo for breaches of dealing provisions
- Public censure of China Life Insurance (Overseas) Company Limited for dealing disclosure breaches
- Scheme of arrangement results announcements
- Revision to Practice Note 12
- Review of monthly update announcements
- Reminder to fund managers on the discontinuation of HKEX’s Portfolio Valuation service
- Quarterly update on the Takeovers Team’s activities

Takeovers Executive of the SFC publicly censures Chen Chi-Te and Kenneth C.M. Lo in relation to breaches of the dealing provisions of the Takeovers Code

7 September 2017 - The Executive publicly censures:

(a) Chen Chi-Te (“Chen”) for breaching Rules 21.2 and 22 of the Code on Takeovers and Mergers (“Takeovers Code”) as a result of his failure to (i) seek the Executive’s consent prior to selling shares in TCC International Holdings Limited and (ii) disclose his dealings in the shares of TCC International Holdings Limited.

(b) Kenneth C.M. Lo (“Lo”) for breaching Rules 21.3 and 22 of the Takeovers Code as a result of his failure to (i) seek the Executive’s consent prior to the purchase of shares in Taiwan Cement Corporation and (ii) disclose his dealings in the shares of Taiwan Cement Corporation.

Both Chen and Lo accept that they breached the Takeovers Code and agree to the disciplinary action taken against them under section 12.3 of the Introduction to the Takeovers Code.

Takeovers Executive of the SFC sanctions Mr Yeung Wing Yee for breaching Rule 26.1 of the Takeovers Code

30 August 2017 - The Securities and Futures Commission (SFC) publicly censures and imposes a 24-month cold shoulder order against Mr Yeung Wing Yee (“Mr Yeung”) for breaching the mandatory general offer obligation under Rule 26.1 of the Code on Takeovers and Mergers (“Takeovers Code”). Mr Yeung will be denied direct or indirect access to the Hong Kong securities market for a period of 24 months commencing on 30 August 2017 to 29 August 2019.

Takeovers Executive of the SFC publicly censures China Life Insurance (Overseas) Company Limited in relation to breaches of the dealing disclosure requirements in Rule 22 of the Takeovers Code

3 August 2017 - The Executive publicly censures China Life Insurance (Overseas) Company Limited (“China Life”) for breaching Rule 22 of the Code on Takeovers and Mergers (“Takeovers Code”) as a result of its failure to disclose its dealings in the shares of Glorious Property Holdings Limited (“Glorious Property”) between 9 May and 5 August 2016. China Life accepts that it breached the Takeovers Code and agreed to the disciplinary action taken against it under section 12.3 of the Introduction to the Takeovers Code.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

ASIC reports on corporate finance regulation – January to June 2017

28 August 2017 - ASIC holds most of the unclaimed money from shares and other investments that people have not collected from companies. This type of unclaimed money is usually the result of a takeover and may include cash and/or shares, depending on the takeover offer.

TAKEOVERS PANEL OF AUSTRALIA

RNY Property Trust - President Makes Interim Orders

29 September 2017 - The President of the Panel has made interim orders to allow the Panel time to consider an application dated 27 September 2017 by Aurora Funds Management Limited as responsible entity of the Aurora Property Buy-Write Income Trust in relation to the affairs of RNY Property Trust.

The interim orders state that the responsible entity of RNY (RNY Australia Management Limited) must not cause or permit the disposal, or the entering into of any agreement or binding commitment to dispose, of any interest in RNY’s properties – without providing the Panel with at least 24 hours’ prior notice of the intention to do so or obtaining the consent of the President or the Panel.

[Molopo Energy Limited 03R, 04R & 05R - Application for Judicial Review](#)

15 September 2017 - The Panel has been served with a Federal Court application dated 8 September 2017 for judicial review of the Panel's decision in *Molopo Energy Limited 03R, 04R & 05R* [2017] ATP 12. The application, made under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) and section 39B of the *Judiciary Act 1903* (Cth), is by Aurora Funds Management Limited.

[Yancoal Australia Limited 04R & 05R - Review Panel Declines to Conduct Proceedings](#)

22 August 2017 - The review Panel has declined to conduct proceedings on the applications by (i) Senrigan Capital Management Ltd and Mr Nicholas R. Taylor and (ii) Mt Vincent Holdings Pty Ltd and Osendo Pty Ltd, indirect wholly-owned subsidiaries of Noble Group Limited, each seeking a review of the Panel's decision in *Yancoal Australia Limited 02 & 03*.

The applications concerned the pro rata renounceable entitlement offer of 23.6 new shares for every 1 existing share in Yancoal to raise up to US\$2.35 billion and a placement to strategic investors of US\$150 million announced by Yancoal on 1 August 2017. Funds raised by the entitlement offer and strategic placement are to be used to provide funding for Yancoal's acquisition of 100% of the shares of Coal & Allied Industries Limited from wholly-owned subsidiaries of Rio Tinto Limited.

[Appointment of Panel Members](#)

11 August 2017 - The Takeovers Panel notes the announcement by the Minister for Revenue and Financial Services of the reappointment of Mr Robert McKenzie and the appointment of Ms Tara Page to the Panel, for terms finishing on 22 March 2020.

[Molopo Energy Limited 03R, 04R & 05R - Orders](#)

10 July 2017 - On 30 June 2017, the review Panel made a declaration of unacceptable circumstances in relation to review applications dated 1 June 2017 by Keybridge Capital Limited (**Keybridge**) and Molopo Energy Limited (**Molopo**). The applications followed the initial Panel's decision in *Molopo Energy Limited 01 & 02*. Aurora Funds Management Limited (**Aurora**) made an application dated 15 June 2017 seeking a review of the initial Panel's decision on orders.

In summary, the review Panel made a new declaration of unacceptable circumstances, having considered that:

- Keybridge and Aurora were associated in relation to Molopo by no later than 26 October 2016 and contravened section 606 and the substantial holder notice provisions and
- as the initial Panel found, the involvement of Mr Nicholas Bolton and Mr John Patton gave rise to unacceptable circumstances from 10 August 2016 in relation to the affairs of Molopo.

[Lepidico Limited 02 - Panel Declines to Conduct Proceedings](#)

6 July 2017 - The Panel has declined to conduct proceedings on an application dated 30 June 2017 from Lepidico Limited in relation to its affairs. Lepidico was the subject of an off-market takeover bid by Lithium Australia NL. Lithium's takeover bid closed on 19 June 2017.