



Quarterly Bulletin on Takeovers Matters

(Third Quarter 2019)

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)

SECURITIES & FUTURES COMMISSION, HONG KONG

TAKEOVERS BULLETIN – Issue No. 50 – September 2019

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 its September 2019 issue, the following matters were highlighted:

- Takeovers Panel's decision concerning Maanshan Iron & Steel Company Limited
- Reminder about offerors' restrictions under Rule 26.4
- Revisions to Practice Note 19 – Chain principle offer price
- Public criticism of CM Asset Management (Hongkong) Company Limited for breaching dealing disclosure requirements
- Quarterly update on the activities of the Takeovers Team

Takeovers and Mergers Panel Decision

22 July 2019 - Ruling on whether the mandatory general offer obligation that would result from the proposed transfer of an interest in Magang (Group) Holding Company Limited, the controlling shareholder of Maanshan Iron & Steel Company Limited, should be waived, and, if not, the applicable offer price per H share for the purposes of the offer.

Public criticism in relation to breaches of dealing disclosure requirements during the offer period for Mengke Holdings Limited (now known as Champion Alliance International Holdings Limited)

11 July 2019 - The Executive publicly criticises CM Asset Management (Hongkong) Company Limited (CMAM) 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 Mengke Holdings Limited (Mengke Holdings) (now known as Champion Alliance International Holdings Limited) between 2 August 2018 and 30 October 2018 under Rule 22. CMAM 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.

MONETARY AUTHORITY OF SINGAPORE

TAKEOVERS BULLETIN - Issue No. 7 - September 2019

- Welcome message
- Fair and equal treatment in election of alternative considerations
- H1 2019 Statistics on M&A activity

Public Statement on Delong Holdings Limited

29 July 2019 - The SIC censures the offeror and advisers who were involved in the withdrawn offer for Delong Holdings Limited for breaches of the Take-over Code.

SECURITIES AND EXCHANGE COMMISSION, THAILAND

SEC hosts Asia Pacific Takeovers Regulators Conference 2019

19 September 2019 – The SEC is hosting the Asia Pacific Takeovers Regulators Conference 2019, an annual platform for expanding cooperative network within the region and sharing views on regulatory frameworks and related experiences, to further promote takeovers efficiency.

NEW ZEALAND TAKEOVERS PANEL

Code Word - Number 49 (September 2019)

- Guidance update
- Inaccurate public documents
- New class exemption for registered charitable trusts

TAKEOVERS PANEL OF AUSTRALIA

Havilah Resources Limited

18 September 2019 - The Panel, Yasmin Allen, Robert McKenzie (sitting President) and Bruce McLennan declined to conduct proceedings on an application by Havilah Resources Limited in relation to its affairs. The application concerned whether (i) Dr Keith Robert Johnson, a co-founder and former director of Havilah, was associated with other shareholders (in contravention of s606 and the substantial holder provisions) and (ii) material sent by Dr Johnson to Havilah shareholders in relation to a general meeting under item 7 s611 contained misleading or deceptive statements. The Panel considered that Havilah had not provided a sufficient body of material to justify the Panel making further enquiries on the question of association and considered that Havilah was able to publish corrective disclosure to clarify any statements by Dr Johnson. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

Mineral Commodities Limited

17 September 2019 - The Panel, Michael Borsky QC, Richard Hunt (sitting President) and Karen Phin, declined to conduct proceedings on an application by Mineral Commodities Limited in relation to its affairs. The application concerned whether a shareholder of Mineral Commodities, who had nominated three directors for appointment at a spill meeting convened under sections 250U and 250V, was associated with other shareholders in contravention of section 606 and the substantial holding provisions. The Panel did not consider that there was sufficient probative material to satisfy it that proceedings should be conducted. The Panel considered that, even if it had found sufficient material to justify making further enquiries, it would have had reservations as to whether an extension of time for Mineral Commodities to make an application would be warranted. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

GBST Holdings Limited

5 August 2019 - The Panel, Tracey Horton AO (sitting President), Bruce McLennan and David Williamson, declined to conduct proceedings on an application by Kiwi Holdco CayCo, Ltd in relation to the affairs of GBST Holdings Limited. The application concerned the process adopted by GBST in granting exclusivity to a potential bidder with the view to entering into a scheme implementation agreement giving effect to the non-binding indicative proposal received from that bidder. The Panel did not consider the process unacceptable and nothing prompted it to second guess a well advised GBST Board. Accordingly, there was no reasonable prospect that it would make a declaration. The Panel accepted an undertaking to disclose a copy of the process and exclusivity deed in order to ensure a better informed market.

Aurora Absolute Return Fund

22 July 2019 - The Panel, Stephanie Charles, John O'Sullivan (sitting President) and Nicola Wakefield Evans, declined to make a declaration of unacceptable circumstances in relation to the affairs of Aurora Absolute Return Fund (ABW). The application concerned (among other things) whether certain persons were associated in relation to ABW and alleged contraventions of s606 and s671B. The Panel was not satisfied that there was sufficient material to establish the alleged associations. Moreover, the Panel concluded that, even if the alleged associations had existed, the public interest test required under s657A(2) to justify a declaration of unacceptable circumstances was not met.

Agua Resources Limited

2 July 2019 - The Panel, Amy Alston, Kelvin Barry and Bruce Cowley (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of Agua Resources Limited (Agua). The application concerned (among other things) the failure to disclose an alleged association between certain Agua shareholders and or their controllers in relation to requisitioned general meetings to change the composition of the Agua board. The Panel considered that persons (holding in aggregate up to 12.50% of Agua's shares) were associated for the purpose of controlling or influencing the composition of the board of Agua and or were acting in concert in relation to the affairs of Agua for the purpose of controlling or influencing the board of Agua. The Panel (among other things) ordered disclosure in the form of a substantial holding notice.