



Quarterly Bulletin on Takeovers Matters

(Second Quarter 2020)

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. 53 – June 2020

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 June 2020 issue, the following matters were highlighted:

- Application of Rule 35.4 on Exempt Principal Traders
- Public censure of Fu Kwan for breaches of dealing restrictions
- Public criticism of CICC Corporation Limited and China International Capital Corporation Limited for dealing disclosure breaches
- New online Documents on Display submission platform
- Quarterly update on the activities of the Takeovers Team

Criticism on CICC Financial Trading Limited and China International Capital Corporation Limited

18 June 2020 – The Executive publicly criticizes CICC Financial Trading Limited and China International Capital Corporation Limited under section 12.3 of the Introduction to the Codes on Takeovers and Mergers and Share Buy-backs for breaching Rule 22 of the Code on Takeovers and Mergers as a result of their late disclosure of dealings in the relevant securities in two transactions governed by the Takeovers Code in 2019.

Public censure of Fu Kwan

11 June 2020 – The Executive publicly censures Mr Fu Kwan for acquiring shares in Macrolink Capital Holdings Limited (formerly known as Junefield Department Store Group Limited) within six months after the close of an offer (Restrictions Period) at prices above the offer price in breach of Rule 31.3 of the Code on Takeovers and Mergers.

MONETARY AUTHORITY OF SINGAPORE

TAKE-OVERS BULLETIN – Issue No. 8 – June 2020

- Welcome message
- Breach of Rule 17.1 of the Code
- Calculating the 1% creeper
- H2 2019 Statistics on M&A activity

Public Statement on Despatch of Take-over Documents

6 May 2020 – The Council has today introduced temporary measures to allow with immediate effect until 30 September 2020, parties involved in take-over or merger transactions the option to electronically disseminate take-over documents. There is thus no need to post hardcopy take-over documents as required under the Code.

TAKEOVERS PANEL OF AUSTRALIA

Keybridge Capital Limited 08R, 09R and 10R

25 June 2020 – The review Panel, Michael Borsky QC, Christian Johnston and Denise McComish (sitting President), affirmed the initial Panel's decisions to make a declaration of unacceptable circumstances and orders in *Keybridge Capital Limited 04, 05 & 06*.

Keybridge Capital Limited 07

15 June 2020 – The Panel, Chelsey Drake, Bruce McLennan and Sharon Warburton (sitting President), consented to a request from Bently Capital Limited and Scarborough Equities Pty Ltd to withdraw their application in relation to the affairs of Keybridge Capital Limited. The application primarily concerned incorrect acceptances by the Applicants into a takeover bid for Keybridge made by Aurora Funds Management Limited as responsible entity of the Aurora Dividend Income Trust. During the proceedings, the Applicants reobtained the relevant Keybridge shares. Given this and other changes in circumstances, the Panel consented to the withdrawal request.

Strategic Minerals Corporation NL 06

10 June 2020 – The Panel, Rebecca Maslen-Stannage, Tony Osmond (sitting President) and Nicola Wakefield Evans, declined to conduct proceedings on an application by Ms Veronica Oma in relation to the affairs of Strategic Minerals Corporation NL. The application concerned a proposed renounceable entitlement issue by Strategic Minerals likely to result in Strategic Minerals’ controlling shareholder increasing its shareholding above 90% and proceeding to compulsory acquisition. The Panel considered that the process undertaken by Strategic Minerals to explore its funding options appeared prima facie to be appropriate in the circumstances and there was no reasonable prospect that it would declare the circumstances unacceptable.

Consultation Paper - Guidance Note 20 Equity Derivatives - Public Consultation Response Statement

28 May 2020 - On 10 April 2019, the Takeovers Panel released a Consultation Paper seeking public comments on proposed amendments to Guidance Note 20: Equity Derivatives. Comments on the Consultation Paper were due by 31 May 2019. The Panel received submissions from 10 respondents (Annexure A). The Panel thanks the respondents for their comments. Consistent with the Panel’s published policy on responding to submissions, this statement sets out the Panel’s response to the public consultation.

Accelerate Resources Limited 01 & 02

15 May 2020 – The Panel, Shirley In’t Veld, Jeremy Leibler and John O’Sullivan (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of Accelerate Resources Limited. The two applications (heard together) were made in the context of a requisitioned general meeting and concerned (among other things), a contravention of section 606 as a result of shareholder support deeds entered into between Accelerate and certain shareholders. The Panel considered that Accelerate’s delay in disclosing its interests under those shareholder support deeds, in contravention of section 671B, had the effect of misinforming the market as to the existence and nature of those arrangements and therefore declared the circumstances unacceptable. The Panel made orders, which included releasing the relevant shareholders to those arrangements from their respective shareholder support deeds.

Keybridge Capital Limited 04, 05 & 06

8 May 2020 – The Panel, Chelsey Drake, Bruce McLennan and Sharon Warburton (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of Keybridge Capital Limited. Keybridge was the subject of competing takeover bids from WAM Active Limited and Aurora Funds Management Limited as responsible entity for the Aurora Dividend Income Trust (ADIT). The Panel considered that Keybridge shareholders were not given enough information to enable them to assess the merits of ADIT’s bid and Keybridge did not have sufficient procedures in place to mitigate any actual or potential conflicts of interest (arising from at least the time ADIT announced its intention to make its bid). The Panel also considered that WAM Active acquired a substantial interest in Keybridge (purportedly under a takeover bid) in circumstances where its bid had closed subject to defeating conditions. The Panel

ordered unprocessed acceptances under WAM Active's bid cancelled, required WAM Active to reverse any processed acceptances under WAM Active's bid at the option of accepting shareholders and required ADIT to offer withdrawal rights to accepting shareholders under ADIT's bid.

Accelerate Resources Limited 02 (Consent to Review of Interim Orders)

21 April 2020 – The substantive President of the Panel, Alex Cartel, declined to grant consent to an application for review of a decision of the sitting Panel to decline to make interim orders in the Accelerate Resources Limited 02 (Accelerate 02) proceedings.

Appointment of Panel Members

3 April 2020 – The Takeovers Panel notes the announcement by the Minister for Housing and Assistant Treasurer of the reappointment of 12 members and the appointment of 4 new members to the Panel, for terms of 3 years. Mr Anthony Jarvis, Ms Kristen Jung, Mr Michael Lishman and Mr James Stewart are new members. The following members have been reappointed: Ms Yasmin Allen; Ms Paula Dwyer; Ms Karen Evans-Cullen; Ms Michelle Jablko; Mr Ian Jackman SC; Mr Christian Johnston; Ms Rebecca Maslen-Stannage; Mr Robert McKenzie; Ms Diana Nicholson; Ms Tara Page; Mr Neil Pathak and Mr David Williamson. The President and Panel executive warmly welcome the new members and thank Mr John Sheahan QC, who finished his term on 23 March 2020, for his service to the Panel. The Panel now has 46 members all of whom are appointed on a part-time basis.

NEW ZEALAND TAKEOVERS PANEL

Augusta Capital Limited – Exemption Notice 2020

18 June 2020 – Centuria New Zealand Holdings Limited is exempted from Rule 20 and Rule 56 of the Code to the extent that scrip consideration offered under the offer relates to overseas shareholders, and scrip consideration issued under a compulsory sale relates to overseas shareholders.

Takeovers Panel responds to Metlifecare's application for letter of intention

27 May 2020 – The Takeovers Panel has reviewed the information proposed to be put by Metlifecare Limited (Metlifecare) to its shareholders for the purpose of voting on a scheme of arrangement (the Proposed Scheme) to effect the acquisition of 100% of the ordinary shares in Metlifecare by Asia Pacific Village Group Limited. The Panel understands that a Court hearing on this matter is scheduled to occur on 28 May 2020. The Panel expresses no views on the merits of the Proposed Scheme or the Termination Dispute.

Independent Advisers

21 April 2020 – This Guidance Note sets out information for independent advisers approved by the Panel to prepare reports under the Takeovers Code. This includes the role of independent advisers and the purpose of different types of reports that may be required. The Guidance Note also includes the Panel’s policy on the approval of independent advisers, and the information that must be provided to the Panel by an applicant seeking to be appointed as an independent adviser.

Limited Partnerships

21 April 2020 - Limited partnerships are increasingly common in New Zealand, including as investment vehicles that acquire or otherwise hold or control shares in Code companies. The material in this Guidance Note is from the article “Limited Partnerships and Control of Code Company Voting Rights in CodeWord 50. It outlines the Panel’s general views about who controls the voting rights in a Code company that are held by a limited partnership. CodeWord 50 updated the Panel's position on limited partnerships as described in CodeWord 30.

SECURITIES COMMISSION MALAYSIA

Application to Withdraw the Conditional Voluntary Take-over Offer for TA Global Berhad by TA Enterprise Berhad.

2 June 2020 – The Securities Commission Malaysia (SC) announced today that it has declined to give consent to TA Enterprise Berhad (TAE)’s application made on 6 May 2020 to withdraw the conditional voluntary offer for the remaining voting shares in TA Global Berhad (TAG). In arriving at its decision, the SC considered among others, the justifications provided by the applicant, the conduct of the applicant from the time of the announcement of the offer up to the date of the application to the SC and precedents from other jurisdictions. The SC has also published the decision on its website. The SC’s decision in rejecting TAE’s application to withdraw the conditional voluntary offer for the remaining voting shares in TAG will mean that TAE’s non-interested shareholders will get to decide whether to vote for or against TAE’s proposal at their extra ordinary general meeting.

SC Introduces Flexibilities in Complying with Take-over Offer Requirements

23 April 2020 – The Securities Commission Malaysia today introduces flexibilities in complying with the requirements under Capital Markets and Services Act 2007 (CMSA) and Rules on Take-overs, Mergers and Compulsory Acquisitions (Rules) during the Movement Control Order (MCO) period. With the new flexibilities, the SC will allow a hybrid method of serving take-over notices and documentation via electronic publication on dedicated pages at either the Bursa or the SC websites; and concurrently sending to all offeree shareholders a physical summary notification to inform them of the offer and the availability

of the relevant notices and documents on the SC or Bursa website. Shareholders can now opt to accept an offer either electronically or by the conventional method of responding by post. The SC has also extended the time period for settlement of cash consideration from 10 days to 12 days to facilitate the settlement of consideration via e-payment or issuance of cheques by shareholders who have accepted a take-over offer. During the MCO period, offerors may instead of submitting a statutory declaration under section 222(1)(B) CMA, send in a declaration to the SC confirming that all conditions have been fulfilled.