

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed changes discussed in the Consultation Paper downloadable from the HKEx website at: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201208.pdf>.

Where there is insufficient space provided for your comments, please attach additional pages.

CHAPTER 2: PROPOSED AMENDMENTS

Main Features of Proposed New Rules

1. Do you agree with our proposed inclusion of express statements regarding the SFC's and the Exchange's role and responsibilities for enforcement of the obligation to disclose inside information under the SFO in MB Chapter 13 and GEM Chapter 17?

☒ Yes

☐ No

Please give reasons for your views.

It is helpful to have clarity on the point.

2. Do you agree with our proposed deletion of MB Rules 13.09(1)(a) and 13.09(1)(c) (GLRs 17.10(1) and 17.10(3))?

☒ Yes

☐ No

Please give reasons for your views.

The deletion avoids duplication with the corresponding provisions in the SFO.

3. Do you agree to delete some of the notes to Rule 13.09(1) (GLR17.10) and elevate some of them to rules, as proposed?

☒ Yes

☐ No

Please give reasons for your views.

Those which are deleted are no longer relevant. Those which are retained remain relevant.

4. Do you agree with the proposed changes to Rule 13.10 (GLR17.11)?

☒ Yes

☐ No

Please give reasons for your views.

They sensibly reflect the Exchange's continuing responsibilities in relation to the maintenance of orderly, informed and fair securities markets. There is a potential overlap between an issuer's duty to announce inside information under the SFO and its duty to announce under the Listing Rules to avoid a false market, but we think that this should not lead to difficulties in practice.

5. Do you agree that the issuer should be required to confirm all the four negatives set out in the proposed new standard announcement under MB Rule 13.10 (GLR17.11), as proposed in paragraph 17?

☒ Yes

☐ No

Please give reasons for your views.

Please see previous answer.

6. Do you agree that the obligation under Rule 13.09(1)(b) (GLR17.10(2)) should remain in the Rules despite implementation of Part XIVA of the SFO?

☒ Yes

☐ No

Please give reasons for your views.

Please see answer to question 4.

7. Do you agree with the drafting in the proposed new MB Rule 13.09(1) (GLR17.10(1))?

☒ Yes

☐ No

Please give reasons for your views.

Please see answer to question 4.

8. Do you agree to clarify the obligation to apply for a trading halt? Do you agree with the proposed new MB Rule 13.10A (GLR17.11A)?

☒ Yes

☐ No

Please give reasons for your views.

The clarification provides helpful guidance to issuers and rule itself provides for trading halts when information needs to be announced in order to ensure that trading takes place on the basis of information which needs to be disclosed but cannot be announced promptly.

9. Do you agree that a trading halt will be required if an issuer reasonably believes there is inside information which requires disclosure under the SFO but it cannot disclose the information promptly? Do you agree with the proposed new MB Rule 13.10A(2) (GLR17.11A(2))?

☒ Yes

☐ No

Please give reasons for your views.

Please see answer to question 8.

10. Do you agree to include MB Rule 13.06A (GLR17.07A) which imposes an obligation to preserve confidentiality of inside information until disclosure?

☒ Yes

☐ No

Please give reasons for your views.

Maintenance of the confidentiality of inside information is clearly best practice, since otherwise trading may take place between persons with and without access to inside information.

Other Changes

Part A: New Defined Terms and Revise Some Defined Terms

11. Do you agree that we should define Part XIVA of the SFO as “Inside Information Provisions”?

☒ Yes

☐ No

Please give reasons for your views.

The expression is sensible shorthand.

12. Do you agree with the proposed changes to the defined terms set out in paragraphs 26(b) and 26(c) of the Consultation Paper?

☒ Yes

☐ No

Please give reasons for your views.

The new definitions give greater flexibility.

13. Do you agree with the proposed definition of the term “trading halt” and its use in the proposed Rule changes?

☒ Yes

☐ No

Please give reasons for your views.

The expression is sensible shorthand and appears to be used appropriately in the revised Rules.

Part B: Other Consequential Changes

14. Do you agree with our proposal to replace the term “price sensitive information” in the Rules with the term “inside information”?

☒ Yes

☐ No

Please give reasons for your views.

It makes sense to have the same definition and defined term in the Listing Rules and the SFO.

15. Do you agree with our proposal to retain provisions such as MB Rules 10.06(2)(e) and 17.05 (GLR13.11(4) and 23.05) by replacing the term “price sensitive information” with the term “inside information”, although their enforcement would require the Exchange’s interpretation of whether certain information is inside information?

☒ Yes

☐ No

Please give reasons for your views.

There is no reason in principle why the Exchange should not interpret the expression where it makes sense for it to do so.

16. Do you agree with our proposal to delete references to the obligation to disclose information under the current general disclosure obligation and in particular, MB Rules 13.09(1)(a) and (c) and GLR17.10(1) and (3)?

☒ Yes

☐ No

Please give reasons for your views.

In practice these obligations will often be duplicative of the obligation to disclose inside information under the SFO. Where they are not, other amendments (see next question) will cause appropriate obligations to remain.

17. Do you agree with our proposal to create specific rules in respect of those matters which are currently discloseable under the general disclosure obligation, i.e. the proposed new MB Rules 13.24A, 13.24B, and the revised Practice Notes 15 and 17?

☒ Yes

☐ No

Please give reasons for your views.

Please see answer to question 16.

18. Do you agree with our proposed changes to the provisions and the Listing Agreements in respect of the issue of debt securities?

☒ Yes

☐ No

Please give reasons for your views.

The changes are a sensible response to the change in the statutory disclosure regime.

19. Do you agree with our proposal to clarify the obligation on guarantors of debt securities to disclose information which may have a material effect on their ability to meet the obligations under the debt securities?

☒ Yes

☐ No

Please give reasons for your views.

Please see answer to question 18.

Part C: Plain Writing Amendments

20. Do you have any comments on the plainer writing amendments? Do you consider any part(s) of these amendments will have unintended consequences? Please give reasons for your views.

☐ Yes

☒ No

Please give reasons for your views.