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February 22, 2011

BY MAIL AND BY E-MAILCorporate Finance Division
Securities and Futures Commission
8/F Chater House
8 Connaught Road Central
Hong KongCorporate Communications Department
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong**Re: JOINT CONSULTATION PAPER ON PROPOSED CHANGES TO
PROPERTY VALUATION REQUIREMENTS**

Dear Sirs,

A. INTRODUCTION

We are delighted to have the opportunity to comment on the joint consultation paper on proposed changes to property valuation requirements (the "Consultation Paper"), issued by the Securities and Futures Commission ("SFC") together with the Stock Exchange of Hong Kong Limited ("Exchange") on 3 December 2010.

We support the SFC and Exchange's proposal to simplify the existing disclosure regime in relation to the valuation of property and consider it a positive step towards enhancing and streamlining the overall prospectus and circular disclosure requirements by providing quality and relevant information to investors. These proposed requirements, when implemented, are arguably more user-friendly and cost-efficient to listing applicants and issuers. We believe the SFC and Exchange have made a significant step forward in applying a varying degree of property valuation disclosure requirements to property activities and non-property activities that reflect the different business nature of a listing applicant.

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We have provided responses to those questions posed in the Consultation Paper on which we have particular views.

Defined terms in the Consultation Paper shall have the same meanings in this letter.

B. OUR RESPONSES

General Disclosure Obligation and Proposals for All Applicants

1. Do you agree with the proposed disclosure guidance for material property interests in paragraph 61 of the Consultation Paper?

Yes. We agree that listing applicants should disclose descriptive information on material properties, even where valuation reports may already be required to be disclosed. We also agree to the guidance set out in paragraph 61 on what amounts to appropriate descriptive information required in listing documents.

To aid listing applicants, sponsors and practitioners in determining what is, or is not, *material* property, the SFC and the Exchange may consider further refining the guidance as set out in paragraph 58 as follows:

(a) whether the property interest (individually or in aggregate) is used for or is intended to be used for a reportable segment of the applicant. If so, whether it contributes a significant-material portion of revenue to the applicant;

(b) whether there are any encumbrances on the property or use of the property that may, at any time directly or indirectly have a material impact on the operations of the applicant's reportable segment;

(c) whether there are any defects relating to the property or its operations that may have ~~major~~ a material impact on the applicant's business or operations. For example, breach of environmental regulations or title defects; and

(d) whether there is re-development potential for the property that may have a material impact on the applicant's financial position."

We suggest adopting the term "material" as opposed to "significant" in the definition as "material" carries a more established meaning under common law. The SFC and Exchange may also consider expanding the guidance above to cover scenarios where the applicants plan to or will likely (i) dispose of the relevant property interest or (ii) change the use of the relevant property, that may have a material impact on the applicant's financial position.

2. **Do you agree that the proposed definition of property activities is appropriate?**

Yes.

3. **Do you agree with the proposed definition of a property interest in paragraph 67 of the Consultation Paper?**

We agree with the SFC and Exchange's definition of "*property*" in paragraph 67.

We note that the proposed Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 as set out in Appendix III to the Consultation Paper, defines property interest to mean "*any interest in property*", which when read broadly, will include indirect interests such as options or preemptive rights to purchase properties. Indeed, we agree that the definition of property interest should be interpreted broadly to cover direct and indirect interests.

4. **Do you agree with the proposed guidance on what should be treated as a single property interest in paragraph 69 of the Consultation Paper?**

Yes.

5. **In addition to the information mentioned in paragraph 74 of the Consultation Paper, is there any other information that should be disclosed in a valuation report that is not required at present by the Listing Rules? Also, is there any information that is no longer required to be disclosed in a valuation report?**

No.

6. **Do you agree with the proposal to maintain the effective date at which the property was valued under Rule 5.07 at not more than 3 months before the date of the listing document?**

Yes.

7. **Do you think that the prospectus law should retain requirements for property valuations in line with the proposals in this paper? Alternatively is it sufficient for the prospectus law to rely on the general disclosure obligation under the Companies Ordinance?**

Unless the prospectus law will include extra provisions or details not covered in the Companies Ordinance, we agree that it is sufficient for the prospectus law to rely on the general disclosure obligation under the Companies Ordinance.

Indeed, we believe the Companies Ordinance, in conjunction with the Rules Governing the Listing of Securities on the Exchange ("**Listing Rules**"), will offer more flexibility than the prospectus law in terms of future implementation of new amendments.

Proposals for Property Activities

8. Do you agree not to require property valuations and disclosing valuation information if the carrying amount of a property interest of an applicant's property activities is below a percentage of its total assets?

Yes.

9. Do you agree not to require valuation of a property interest with carrying amount below 1% of total assets?

Yes.

10. Do you agree that the total carrying amount of property interests that do not require valuation cannot exceed 10% of the applicant's total assets?

Yes.

11. Do you agree that a listing document should include full text of valuation reports for all property interests that are required to be valued under property activities except where summary disclosure is allowed?

Yes. We agree that a listing document should include full text of valuation reports for all property interests which are not exempted as stated in the proposal.

12. Do you agree to allow summary disclosure if the market value of a property interest as appraised by the valuer is less than 5% of the property interests that are required to be valued under property activities?

Yes.

13. Do you agree with the form for summary disclosure of property interests in Appendix II of the Consultation Paper?

Yes.

14. Do you agree that an applicant should be required to include an overview in the listing document describing all property interests not covered by a valuation report?

Yes. We also agree with the SFC and Exchange's proposed scope of such disclosure as set out in the proposed class exemption notice.

15. Do you agree that the proposed class exemption notice should apply to prospectus for unlisted companies as well as applicants?

Yes.

16. Do you agree that the proposed class exemption notice in Appendix III of the Consultation Paper will implement the proposals for property activities?

Yes.

17. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for property activities?

Yes.

Proposals for Non-Property Activities

18. Do you agree that a full text of valuation report is required if the carrying amount of a property interest is or is above 15% of an applicant's total assets?

Property interests of a listing's applicant's non-property activities are normally owned and occupied for own use. As such, a full text of valuation report may not be directly relevant to investors. Whilst we agree that a 15% carrying amount threshold may be acceptable, we do believe a summary disclosure (similar to that as set out in Appendix II of the Consultation Paper), should provide sufficient information to the investors.

19. Do you agree that the 15% threshold should be calculated using:

- (a) the carrying amount of a property interest; and
- (b) total assets

reflected in the accountants' report of the applicant?

Yes.

20. Do you agree with the proposed disclosure requirement for property interests in paragraph 98 of the Consultation Paper?

Yes.

21. Do you agree that an applicant should be required to include an overview in the listing document describing all property interests not covered by a valuation report?

Yes.

22. Do you agree that property interests ancillary to mining activities will not be required to be valued if the prospectus includes a valuation by an independent professionally qualified valuer of the associated mineral or petroleum assets or resources?

Yes.

23. Do you agree that the proposed class exemption notice should apply to prospectus for unlisted companies as well as applicants?

Yes.

24. Do you agree that that proposed class exemption notice in Appendix III of the Consultation Paper will implement the proposals for non-property activities?

Yes.

25. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for non-property activities?

Yes.

Proposals To Amend Property Valuation Requirements For Issuers

26. Do you agree with the proposed disclosure guidance for material property interests in paragraph 61 of the Consultation Paper?

Please see our response to Question 1 above.

27. Do you agree that it is unnecessary to introduce different valuation requirements for acquisition or disposal of non-property activities and property activities for issuers?

Yes.

28. Do you agree with the proposal to remove valuation requirements if the company being acquired or disposed of is listed on the Exchange, except for a connected transaction (see paragraph 123 of the Consultation Paper)?

Yes.

29. Do you agree that an overview of property interests not covered by a valuation report be disclosed in the circular?

Yes.

30. Do you agree not to require property valuations and disclosing valuation information for acquisition or disposal of an unlisted company if the carrying amount of a property interest is below a percentage of the issuer's total assets?

Yes.

31. Do you agree not to require valuation of property interest with carrying amount below 1% of the issuer's total assets?

Yes.

32. Do you agree that the total carrying amount of property interests that do not require valuation cannot exceed 10% of the issuer's total assets?

Yes.

33. Do you agree with the proposed definition of property interest in paragraph 67 of the Consultation Paper?

Yes.

34. Do you agree with the proposed guidance on what should be treated as a single property interest in paragraph 69 of the Consultation Paper?

Yes.

35. Do you agree that a circular should include full text of valuation reports for all property interests that are required to be valued except where summary disclosure is allowed?

Yes.

36. Do you agree to allow summary disclosure if the market value of a property interest as appraised by the valuer is less than 5% of the property interests that are required to be valued?

Yes.

37. Do you agree with the form for summary disclosure of property interests in Appendix II of the Consultation Paper?

Yes.

38. Do you agree that an overview of property interests not covered by a valuation report be disclosed in the circular?

Yes.

39. Do you agree that for an acquisition or disposal of an unlisted company, valuations will not be required for property interests ancillary to mining activities if the circular includes a valuation by an independent professionally qualified valuer of the associated mineral or petroleum assets or resources?

Yes.

40. Do you agree with the proposal relating to a very substantial acquisition in paragraph 121 of the Consultation Paper?

Yes.

41. Do you agree with the proposal to retain the existing valuation requirements for connected transactions?

Yes.

42. Do you agree that valuation will continue to be required if the connected transaction involves an acquisition or disposal of a company listed on the Exchange?

Yes.

43. Do you agree with the proposals relating to connected transactions in paragraph 125 of the Consultation Paper?

Yes.

44. In addition to the information mentioned in paragraph 74 of the Consultation Paper, is there any other information that should be disclosed in a valuation report that is not required at present by the Listing Rules? Also, is there any information that is no longer required to be disclosed in a valuation report?

No.

45. Do you agree with the proposal to maintain the effective date at which the property was valued under Rule 5.07? (Please note that the same question has been raised for applicants in question 6).

Yes.

46. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for issuers?

Yes.

Please do not hesitate to contact [REDACTED] if you would like to discuss any of the responses above.

Yours faithfully,

Cleary Gottlieb Steen & Hamilton (Hong Kong)