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3 October 2012

By email: response@hkex.com.hk

Corporate Communications Department
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

Dear Sirs

Re: Consultation Paper on Rule Changes Consequential on the Enactment of the Securities and Futures (Amendment) Ordinance 2012 (Ordinance)

We refer to the above consultation paper issued by the Hong Kong Exchanges and Clearing Limited (HKEx) in August 2012.

We agree that provisions in and notes to the Rules Governing the Listing of Securities (Rules) relevant to the obligation of disclosing inside information should be deleted to avoid overlapping with the Ordinance, causing potential confusion.

We would like to provide our responses to the specific questions set out in the consultation paper as follows:

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?***

Agree. The proposed statements would enhance clarity by distinguishing the roles and responsibilities between the SFC and the HKEx.

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))?***

Agree. The proposed deletion in the Rules would avoid overlapping with the Ordinance or the SFC Guidelines.

Chairman The Hongkong and Shanghai Banking Corporation Ltd
Vice Chairmen Bank of China (Hong Kong) Ltd
Standard Chartered Bank (Hong Kong) Ltd
Secretary Ronie Mak

主席 香港上海匯豐銀行有限公司
副主席 中國銀行（香港）有限公司
渣打銀行（香港）有限公司
秘書 麥依敏

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?***

We disagree to elevate the notes to new rules 13.06A, 13.06B, 13.24B(1) and 13.24B(2) to avoid overlapping with the Ordinance. The determining factor should be whether the information is inside information.

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

Disagree. Since a listed issuer will have an obligation to immediately announce inside information, there should be no need for HKEx to require “negative” announcements by the issuer. We also understand from the new SFC Guidelines on Disclosure of Information (nos. 79 and 80) that issuers are generally under no obligation to respond to media speculation, market rumours or analysts' reports and we believe this to be appropriate.

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?***

Disagree.

Should the HKEx decide ultimately to require an issuer to make the “negative” announcement, we would seek clarification on the definition of a “false market” as it is not clear what information which is not inside information may be considered as creating a “false market”. In addition, we submit that sufficient time should be allowed for issuers to verify the facts and seek professional advice as appropriate before making the announcement. Please also clarify any follow-up actions HKEx may take before directing a trading halt in case the announcement is deemed not being made promptly.

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

Disagree. Please refer to our reply under item 4 above.

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

Disagree. Please refer to our reply under item 4 above.

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)?***

Agree. The proposed clarification would help to remove misunderstanding on the obligation to apply for a trading halt.

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))?*

We agree to the proposed new MB Rule 13.10A(2)(GLR17.11A(2)) as it is in line with the issuers' obligation of inside information disclosure.

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

Agree.

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

Agree. The inclusion of the definition would facilitate the relevant references to the Ordinance.

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

Agree. The proposed changes would simplify the terms used.

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

Agree. The proposed definition is clear.

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

Agree. The replacement would facilitate consistency with the statutory regime.

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?*

Agree. We expect the HKEx's interpretation and application of those provisions to be consistent with the SFC Guidelines and any Market Misconduct Tribunal decisions.



- 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)?**

Agree. The deletion would avoid confusion and inconsistency with Part XIVA of the Ordinance.

- 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?**

Disagree. Please refer to our reply under item 3 above.

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

Since the issuers' obligations on the disclosure of inside information are covered in the Ordinance, we suggest that it should only be necessary to make changes to the issuer's obligations that are not included in the Ordinance.

- 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?**

Agree. The proposed clarification would help to remove misunderstanding on the obligation of disclosure by guarantors of debt securities.

- 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.**

No comments.

We hope you would find our above comments useful. Should you have any questions, please do not hesitate to contact our _____, _____ at _____.

Yours faithfully