

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.

The proposed inclusion clarifies the roles of SFC and the Exchange under the new regime.

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 proposed deletion avoids duplication of 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.

This is consistent with the approach suggested in Q2 which we support.

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

Yes

No

Please give reasons for your views.

We agree generally with the proposed change with respect to Inside Information and False Market regimes to be administered by the SFC and HKEx respectively. We expect the HKEx to act in consistent with its past practice with respect to avoidance of False Market rules

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.

Ditto Q4. However, we would suggest changing "due" inquiry to "reasonable" inquiry since it is not clear as to what due inquiry means whereas reasonable test is well established under common law, which we believe would provide clarity on the requirement.

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.

This is consistent with the general approach change to the Inside Information and False Market.

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.

The drafting has imposed an express requirement for announcement to correct or prevent a false market - in the past this requirement was implied in the context.

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.

It is good to clarify that under what circumstances the issuers should apply for 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))?

Yes

No

Please give reasons for your views.

This helps maintain an orderly, informed and fair market. We are fine with 13.10A(2) as long as SFO and HKEx are aligned on this point.

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.

This helps maintain an orderly, informed and fair market and avoid issues of selective disclosure or unequal access to the 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.

This distinguishes itself from the "False Market Provisions" which will continue to be enforced by the HKEx.

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.

This makes it easier to refer to.

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.

This makes it easier to refer to. Drafting here needs to be reconciled with the Trading Halts Consultation responses where Trading Halt also means a brief halt post announcement for market digestion of information purposes. HKEx should anticipate diverse views there.

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 use the same defined term in both the Listing Rules and the SFO in describing the same substantive concept.

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.

This helps maintain consistency. It would be an alignment issue for SFC and HKEx work out the boundary.

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.

Ditto Q2

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.

Good to have disclosure provisions not covered by the Inside Information Provisions and False Market Provisions

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.

This helps debt securities holders to better appraise the issuers' ability to repay their debts.

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.

This helps debt securities holders to better appraise the guarantors' ability to meet their obligations.

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.