

Corporate Finance Adviser Code of Conduct

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Table of contents

Definitions	1
Corporate Finance Adviser Code of Conduct	3
1. Introduction	3
2. Conduct of business	5
3. Competence	7
4. Conflicts of interest	8
5. Standard of work	10
6. Duties to the client	13
7. Communication with Regulators	14
8. Personal account dealings	15

Share Repurchase Code	The Hong Kong Code on Share Repurchases
Stock Exchange	The Stock Exchange of Hong Kong Limited
Takeovers Code	The Hong Kong Code on Takeovers and Mergers
Takeovers Executive	The Executive Director of the Corporate Finance Division of the SFC or any delegate of the Executive Director

Corporate Finance Adviser Code of Conduct

1. Introduction

1.1 Purpose of this Code

This Code sets out requirements and guidelines in respect of the conduct of Corporate Finance Advisers.

1.2 Corporate finance advice

“Advising on corporate finance” means giving advice:

- (a) concerning compliance with or in respect of regulations including the Listing Rules, the Takeovers Code and the Share Repurchase Code respectively;
- (b) concerning:
 - (i) any offer to dispose of securities to the public;
 - (ii) any offer to acquire securities from the public; or
 - (iii) acceptance of any offer referred to in sub-paragraph (i) or (ii), but only in so far as the advice is given generally to holders of securities or a class of securities; or
- (c) to a listed corporation or public company or a subsidiary of the corporation or company, or to its officers or shareholders, concerning corporate restructuring involving securities (including the issue, cancellation or variation of any rights attaching to any securities),

but does not include advice given by:

- (i) a person who is licensed to deal in securities who gives such advice wholly incidental to the carrying on of that securities dealing business;
- (ii) an authorized financial institution which is registered to deal in securities and gives such advice wholly incidental to the carrying on of that securities dealing business;
- (iii) an individual -
 - (A) whose name is entered in the register maintained by the Monetary Authority under section 20 of the Banking Ordinance (Cap. 155) as engaged in the business of dealing in securities by an authorized financial institution registered for that business; and
 - (B) who gives such advice wholly incidental to the carrying on of that securities dealing business.
- (iv) a corporation solely to any of its wholly owned subsidiaries, its holding company which holds all its issued shares, or other wholly owned subsidiaries of that holding company;

- (v) a solicitor who gives such advice wholly incidental to his practice as such in a Hong Kong firm or foreign firm within the meaning of the Legal Practitioners Ordinance (Cap. 159);
- (vi) a counsel who gives such advice wholly incidental to his practice as such;
- (vii) a professional accountant who gives such advice wholly incidental to his practice as such in a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50);

2. Conduct of business

A Corporate Finance Adviser should ensure that it is fit and proper to conduct its business.

policies and procedures, and all applicable legal and regulatory requirements, including this Code;

- (b) ensure that its compliance function possesses the technical competence, adequate resources and experience necessary for the performance of its functions; and
- (c) ensure that its compliance function is independent of other business functions and reports directly to Senior Management. Compliance monitoring activities may be delegated to an appropriately qualified professional, although the responsibilities and obligations may not be delegated.

Note:

For small firms where human resources are limited, Senior Management should assume the role of the Designated Compliance Officer.

2.6 A Corporate Finance Adviser is encouraged to establish clear and comprehensive written compliance procedures (which should be readily available to all staff involved in the business of advising on corporate finance), covering its corporate finance business and addressing all applicable regulatory requirements. Such procedures should give Senior Management reasonable assurance that the corporation complies with all applicable requirements at all times.

2.7 Training

A Corporate Finance Adviser should offer continuous professional training to its staff.

3. Competence

A Corporate Finance Adviser should act with competence.

3.1 Integrity

A Corporate Finance Adviser should be honest, and of good repute and character, and it should maintain a high standard of integrity and fair dealing.

3.2 Demonstration of competence

Regulators may require a Corporate Finance Adviser and its staff members to demonstrate their resources, competence and suitability, e.g. by submitting a list of their qualifications and previous experience in handling relevant corporate finance work for the Regulators' consideration.

3.3 Professional advice

Where appropriate, a Corporate Finance Adviser should seek proper professional advice in respect of its compliance with the applicable laws and regulations.

4. Conflicts of interest

A Corporate Finance Adviser should avoid engaging in work that is likely to involve conflicts of interest.

4.1 Conflicts of interest

A Corporate Finance Adviser should:

- (a) take all reasonable steps to avoid situations that are likely to involve a conflict of interest;
- (b) not unfairly place its interests above those of its clients; and
- (c) withdraw from, or decline to accept, a mandate where a material conflict of interest arises with its client that cannot be resolved through its client giving its informed consent.

4.2 Acting as IFA

Issues of conflicts of interest relating to the independence of a financial adviser should be dealt with in accordance with the Listing Rules, the Takeovers Code or the Share Repurchase Code as appropriate.

4.3 Chinese walls

Where a Corporate Finance Adviser is part of a professional firm or group of companies undertaking other activities, e.g. auditing, banking, research, stockbroking and fund management, the Corporate Finance Adviser should ensure that there is an effective system of functional barriers (*Chinese walls*) to prevent the flow of information

4.6 Receipt or provision of benefits

A Corporate Finance Adviser should:

- (a) not offer nor accept any inducements in connection with the business of, or a transaction involving, its client without first disclosing the particulars of the inducements to the client. If the client is a corporation, such disclosure should be made to the board of directors of the corporation; and
- (b) ensure that it develops and maintains written policies and procedures on the disclosure of the value of gifts given to, or provided by, its staff members above a certain monetary limit, and the circumstances in which they were offered or received.

5. Standard of work

A Corporate Finance Adviser should aim to deliver a high standard of work at all times.

5.1 Due skill and care

A Corporate Finance Adviser must act with due skill, care and diligence and observe proper standards of market conduct.

5.2 Engagement letter

A Corporate Finance Adviser is encouraged to record the terms of its engagement in writing between the Corporate Finance Adviser and its client and to ensure that the service performed for the client is in accordance with the provisions of the engagement letter.

5.3 Role of sponsor in a public offer

Where a Corporate Finance Adviser acts as a sponsor in relation to an initial public offering which involves the offer for subscription or an offer for sale to the public (the “public offer”), it should be responsible for:

- (a) the overall management of the public offer;
- (b) assessing the likely interest in, or the reception of, the offer by the public; and
- (c) putting in place sufficient arrangements and resources to ensure that the public offer and all matters ancillary thereto are conducted in a fair, timely and orderly manner.

5.4 In discharging its obligations under paragraph 5.3 above, the Corporate Finance Adviser should have regard to at least the following matters:

- (a) whether there are sufficient prospectuses and application forms for the securities offered for distribution to the public during the public offer period;
- (b) without derogating from the Corporate Finance Adviser’s obligation to act as the overall manager of the public offer as sponsor, whether specific responsibilities in relation to the public offer should be delegated to other professionals or advisers; and if so, whether such professionals or advisers are competent and have sufficient capacity and resources to handle the relevant responsibilities;
- (c) whether sufficient measures have been put in place to ensure that:
 - (i) the distribution of prospectuses and application forms to the public;
 - (ii) the collection of completed application forms from the public; and
 - (iii) the despatch of unsuccessful applications, refund cheques and share certificates after the public offer period closes, can be made in a timely and orderly fashion;

- (d) the need to avoid events of disorder or failure which may arise during the public offer period and before the trading of securities commences or otherwise in connection with the public offer, and ensure that appropriate contingency plans have been drawn up to deal with any such events; and
- (e) where balloting is required to determine the successful applications under a public offer, whether appropriate arrangements have been put in place to ensure that balloting would be conducted fairly and independently of the issuer and parties associated with it.

5.5 Reliance on work by experts or other professionals

Where reliance on the work of independent experts or other professionals is planned, a Corporate Finance Adviser (including an independent financial adviser) should, inter alia:

- (a) undertake reasonableness checks to assess the relevant experience and expertise of the firm of experts or other professionals and to satisfy itself that reliance could fairly be placed on their work; and
- (b) review and discuss with its clients and the experts or other professionals the qualifications, bases and assumptions adopted by the experts or the other professionals in the course of their work and satisfy itself that the qualifications, bases and assumptions have been made with due care and objectivity, and on a reasonable basis.

Note:

The requirements in paragraph 5.5(b) shall not be applicable in respect of work performed by:

- (i) a property valuer in respect of a valuation of real property if it is a member of a relevant regulatory or professional body;
- (ii) legal advisers in respect of legal advice real aT Twabp een m259essionnJdut in plac.0

document or the filing of the application fee. It should ensure that its responsibilities are performed on a timely basis in accordance with the relevant rules and regulations.

5.8 Standard of documents

Where a Corporate Finance Adviser is involved in the preparation of any document for public dissemination, it should use all reasonable efforts to assist its client in ensuring that the document is prepared to the required standard and no relevant information has been omitted or withheld.

5.9 Use of plain language

A Corporate Finance Adviser is encouraged to use plain language in the preparation of documents. Reference should be made to the *Guides on the preparation of announcements and documents* issued by the Regulators.

5.10 Information to analysts in new listings

Where a Corporate Finance Adviser acts as a sponsor in relation to a listing of equity securities by a company on the Stock Exchange, the sponsor should take reasonable steps to ensure that all material information, including forward-looking information (whether quantitative or qualitative) disclosed or provided to analysts is contained in the relevant prospectus or where the proposed listing does not involve a prospectus, the relevant listing document, offering circular or similar document.

Note:

The requirement in Paragraph 5.10 relating to sponsors' obligation will apply to information provided to analysts regarding listing applicants that submit their listing applications to the Stock Exchange of Hong Kong Limited on or after 31 October 2011.

6. Duties to the client

A Corporate Finance Adviser should ensure that it acts in the best interests of its client at all times.

7. Communication with Regulators

A Corporate Finance Adviser must deal with the Regulators in an open and co-operative manner.

7.1 Dealing with the Regulators

A Corporate Finance Adviser should ensure that its day-to-day communication with the Regulators is only conducted by staff who are competent and conversant with the regulatory requirements.

7.2 Co-operation with the Regulators

A Corporate Finance Adviser should advise its client to co-operate fully with the Regulators, and to provide all relevant information and explanations upon request.

7.3 Consultation

A Corporate Finance Adviser is encouraged to consult the Regulators at an early stage of a transaction or an issue to seek guidance on the transaction or issue under consideration.

8. Personal account dealings

A Corporate Finance Adviser should ensure that all personal account dealings are properly conducted.

The following guidelines are intended to address the basic principle that a Corporate Finance Adviser should avoid conflicts of interest when dealing in securities on its own account while discharging its duties as adviser to its client.

8.1 Personal account dealings

- (a) A Corporate Finance Adviser should have a policy which has been communicated to Relevant Persons in writing on whether they are permitted to deal for their own accounts in securities or futures contracts.
- (b) In the event that Relevant Persons are permitted to deal for their own accounts in securities or futures contracts:
 - (i) the written policy should specify the conditions on which Relevant Persons may deal for their own accounts;
 - (ii) Relevant Persons should be required to identify all related accounts and report them to the Designated Compliance Officer;
 - (iii) Relevant Persons should generally be required to deal through the Corporate Finance Adviser (if it is also a registered person) or its affiliates;
 - (iv) if Relevant Persons are permitted to deal through another dealer, the Corporate Finance Adviser and the Relevant Persons should arrange for duplicate trade confirmations and statements of account to be provided to the Designated Compliance Officer;
 - (v) any transactions for such Relevant Persons' accounts and related accounts should be separately recorded and clearly identified in the accounting records of the Corporate Finance Adviser (if it is also a registered person) or its affiliates; and
 - (vi) the transactions of Relevant Persons' accounts and related accounts should be reported to and actively monitored by the Designated Compliance Officer who should not have any beneficial or other interest in the transactions and who should maintain procedures to detect irregularities and ensure that the handling of these transactions or orders by the Corporate Finance Adviser or its affiliates is not prejudicial to the interests of the Corporate Finance Adviser's clients.

Notes:

1. *For the purposes of this paragraph 8.1, the term "related accounts" includes accounts of the Relevant Persons' minor children and accounts in which the Relevant Persons hold beneficial interests.*
2. *A globally uniform policy on personal account trading which is consistent with the provisions of paragraph 8.1 above would normally be acceptable.*

8.2 Prohibition of dealings

For the purpose of proper monitoring of personal account dealings and proprietary trading, a Corporate Finance Adviser should maintain a watchlist and restricted list system.

8.3 Proper monitoring

A Corporate Finance Adviser should ensure that all personal account dealings in securities and derivatives by Relevant Persons are properly monitored by the Designated Compliance Officer.