

Takeovers Executive of the SFC sanctions Mr Liang Guosheng for breaching Rule 26.1 of the Takeovers Code

Sanctions

1. The SFC today publicly censures and imposes a 24-month cold-shoulder order against Mr Liang Guosheng ("**Mr GS Liang**") for breaching the mandatory general offer obligation under Rule 26.1 of the Code on Takeovers and Mergers ("**Takeovers Code**"). Mr GS Liang will be denied direct or indirect access to the Hong Kong securities market for a period of 24 months commencing on 30 July 2018 to 29 July 2020.

Background and key facts

2. Silver Base Group Holdings Limited ("**Silver Base**") has been listed on the Main Board of The Stock Exchange of Hong Kong Limited since 8 April 2009. Given that Mr GS Liang is the brother of Mr Liang Guoxing, the Chairman, an executive director and a controlling shareholder of Silver Base ("**Chairman Liang**"), Mr GS Liang and Chairman Liang are presumed to be acting in concert under Class (8) of the definition of "acting in concert" under the Takeovers Code.
3. At the time of the breach Mr GS Liang held senior positions in three out of eight wholly-owned principal subsidiaries of Silver Base. He was the legal representative, executive director and general manager of Shenzhen Silver Base Wine Kingdom Sales Management Co. Ltd, deputy chairman and general manager of Silver Base Wine & Spirit (Shenzhen) Co. Ltd, and director of Silver Base Trading and Development (Shenzhen) Co. Limited. Mr GS Liang was also the trustee and the sole general and executive partner of four p

7. Mr GS Liang has accepted that he breached Rule 26.1(d) of the Takeovers Code and deprived Silver Base's shareholders of the right to receive a general offer for their shares. He sincerely apologised for the breach and claimed that at the time of the Acquisitions he was unaware of the mandatory general offer requirements under the Takeovers Code.

Relevant provision of the Takeovers Code

8. Rule 26.1 of the Takeovers Code provides that:

"Subject to the granting of a waiver by the Executive, when...

- (d) two or more persons are acting in concert, and they collectively hold not less than 30%, but not more than 50%, of the voting rights of a company, and any one or more of them acquires additional voting rights and such acquisition has the effect of increasing their collective holding of voting rights of the company by more than 2% from the lowest collective percentage holding of such persons in the 12 month period ending on and inclusive of the date of the relevant acquisition;*

that person shall extend offers, on the basis set out in this Rule 26, to the holders of each class of equity share capital of the company, whether the class carries voting rights or not..."

9. It follows that a mandatory general offer obligation was triggered on 31 July 2017 but no general offer has been made in breach of Rule 26.1(d) of the Takeovers Code.

Sanctions against Mr GS Liang

10. The Executive has carefully considered the evidence in this case including Mr GS Liang's apology and his acceptance that he has breached Rule 26.1(d) of the Takeovers Code.
11. Rule 26.1 is one of the most fundamental provisions in the Takeovers Code. Mr GS Liang knew that Chairman Liang was the Chairman, an executive director and a controlling shareholder of Silver Base. At the time of the breach, Mr GS Liang himself was a member of the senior management of three principal subsidiaries and four partnerships of Silver Base and he has dealt in the securities market in Hong Kong. He should have appreciated the implications of the Acquisitions on the Takeovers Code and should have made necessary enquiries and sought professional advice before making the Acquisitions.
12. The Executive also expects concert parties of controlling shareholders to comply with the Takeovers Code to use the best of his or her ability, including seeking professional advice as and when needed. In case of doubt, the Executive should be consulted at the earliest opportunity.
13. Mr GS Liang's conduct fell short of the standards expected of him and amounts to a disregard of the Takeovers Code which merits strong disciplinary action. Mr GS Liang has accepted the disciplinary action taken against him under section 12.3 of the Introduction of the Takeovers Code.

14. The Executive takes this opportunity to remind practitioners and parties who wish to take advantage of the securities markets in Hong Kong that they should conduct themselves in matters relating to takeovers, mergers and share buy-backs in accordance with the Takeovers Code and the Share Buy-backs Code. If they do not they may find, by way of sanction, that the facilities of such markets are withheld in order to protect those who participate in Hong Kong's securities markets.

30 July 2018

