

Takeovers Executive of the SFC publicly criticises Cheung Chi Shing for breaching Note 4 to Rule 26.2 under the Code on Takeovers and Mergers

Sanctions

1. The SFC publicly criticises Mr Cheung Chi Shing (**Mr Cheung**) for failure to obtain the relevant regulatory approval before triggering an obligation to make a mandatory general offer for Styland Holdings Limited (**Company**) in breach of Note 4 to Rule 26.2 of the Code on Takeovers and Mergers (**Takeovers Code**).

Background and key facts

2. The Company listed on the Main Board of the Stock Exchange of Hong Kong Limited on 5 December 1991. The Company is a Hong Kong-based investment holding company principally engaged in financial businesses.
3. Mr Cheung, Ms Yeung Han Yi Yvonne (the spouse of Mr Cheung, **Ms Yeung**), K. Y. Limited (a company ultimately owned by Mr Cheung and Ms Yeung, **KYL**), and Mr Cheung Hoo Yin (a son of Mr Cheung) are parties acting in concert under the Takeovers Code (**Concert Group**).
4. On 5 July 2022, Mr Cheung acquired 30,623,172 shares of the Company (representing approximately 4.32% of the shareholding interest in the Company) from two vendors (**Acquisitions**). Upon the completion of the Acquisitions, the Concert Group's aggregate shareholding in the Company increased from 27.52% to 31.84%. As such, Mr Cheung triggered an obligation to make a mandatory conditional general offer for all the shares of the Company pursuant to Rule 26.1 of the Takeovers Code and for all the outstanding convertible bonds of the Company pursuant to Rule 13.5 of the Takeovers Code (**Offers**).
5. Four subsidiaries of the Company¹ (**Licensed Corporations**) are corporations licensed to carry out regulated activities under the Securities and Futures Ordinance (**SFO**).
6. Under the SFO, a person shall not become and continue to be a substantial shareholder (as defined under the SFO) of a licensed corporation without first being approved by the SFC under Section 132 of the SFO (**S132 Approval**), and a person who contravenes the aforementioned commits an offence under Section 131 of the SFO. In the event the Offers become unconditional under the Takeovers Code, Mr Cheung (and parties acting in concert with him) would hold more than 35% of the shares of the Company and they would become new substantial shareholders (as defined under the SFO) of the Licensed Corporations. However, the S132 Approval was not obtained before the obligation to make the Offers was triggered.
7. Mr Cheung accepted that he had not obtained the S132 Approval before triggering an obligation to make the Offers. Mr Cheung was therefore in breach of Note 4 to Rule 26.2 of the Takeovers Code, which requires an offeror to obtain relevant regulatory approvals

Relevant provisions of the Takeovers Code

8. Rule 26.1 of the Takeovers Code provides that “[s]ubject to the granting of a waiver by the Executive, when...
- (b) *two or more persons are acting in concert, and they collectively hold less than 30% of the voting rights of a company, and any one or more of them acquires voting rights and such acquisition has the effect of increasing their collective holding of voting rights to 30% or more of the voting rights of the company;*

that person shall extend offers, on the basis set out in this Rule 26, to the

Licensed Corporations, but they had not obtained the S132 Approval. As such, the Offers could not be made as required under the Takeovers Code.

12. It follows that Mr Cheung breached Note 4 to Rule 26.2 of the Takeovers Code as he did not obtain the S132 Approval prior to the completion of the Acquisitions which gave rise to an obligation to make the Offers.

Remedial actions taken by Mr Cheung

13. Upon discovering that the S132 Approval had not been obtained prior to triggering an obligation to make the Offers, in late July 2022, Mr Cheung and his professional advisers brought these matters to the attention of the Executive and discussed the proposals for remedial action, including the making of the Offers after obtaining the S132 Approval.
14. In light of the relevant requirements under the Takeovers Code and the SFO, Mr Cheung and Ms Yeung transferred their entire shareholding interest in the Company (including those held by KYL) to their three children² (**Cheung's Children**) before the Offers were made:
 - a. In accordance with the proposal, Cheung's Children and Kevonia Family Limited³, a company held by Cheung's Children in equal shares (**Offeror**), applied to the SFC for the hiro thSFSFSili(t)-6.6 (h)-6 (.5)-6.7 4 Tw 3.38 /.0w 8.261 0 Td -0 0 6

17. While remedial measures were taken by the Concert Group to make the Offers, Mr Cheung accepted that he breached the requirement under Note 4 to Rule 26.2 of the Takeovers Code and agreed to the disciplinary action against him under section 12.3 of the Introduction to the Codes on Takeover and Mergers and Share Buy-backs (the **Codes**).
18. Note 4 to Rule 26.2 relates to Rule 26 of the Takeovers Code which is one of the most fundamental provisions in the Takeovers Code. An offeror should ensure that all requisite regulatory approvals are obtained before making any acquisition of voting rights which would give rise to an obligation to make a general offer under Rule 26.1 of the Takeovers Code. The Executive expects persons who take advantage of the securities markets in Hong Kong to comply with the Codes. This includes seeking professional advice as and when needed. In case of doubt, the Executive should be consulted at the earliest opportunity before embarking on a course of action which might have implications under the Codes.