



By email < cficonsult@sfc.hk > and by post

21 December 2010

Our Ref.: C/CFC, M74510

Securities and Futures Commission
8th Floor, Chater House,
8 Connaught Road Central,
Hong Kong.

Dear Sirs,

[Consultation on the Regulatory Framework for Pre-deal Research](#)

The Hong Kong Institute of Certified Public Accountants has considered the above consultation paper. We are generally supportive of measures that aim to achieve fairness, efficiency and transparency in Hong Kong's capital market. However, as you will see from our responses to the specific questions raised in the consultation paper, as set out in the Appendix, we consider that some further practical guidance to support the proposals may be desirable.

If you have any questions on our submission or wish to discuss it further, please contact me at the Institute on 2287 7084.

Yours faithfully,

A handwritten signature in black ink that reads 'Peter Tisman'.

Peter Tisman
Director, Specialist Practices

PMT/ML/ay
Encl.

Comments from Hong Kong Institute of CPAs in response to the Consultation Paper on the Regulatory Framework for Pre-deal Research

Question 1

Do you agree that the requirements in paragraph 16 of the Code of Conduct should be extended to cover research analysts in relation to Pre-deal Research reports? Please explain your view.

We agree that the requirements for analysts writing research reports on listed corporations, in paragraph 16 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (SFC) should be extended to apply to Pre-deal Research reports in order to ensure analysts' independence and objectivity in relation to Pre-deal Research reports. We agree that issues of potential conflicts apply equally to analysts covering companies about to list as to analysts covering companies that are already listed.

Question 2

Do you agree that the requirements in paragraph 16 of the Code of Conduct should be extended to cover research analysts covering proposed listings of and listed SFC-authorised REITs in Hong Kong? Please explain your view.

We agree that the requirements in paragraph 16 of the Code of Conduct should be extended to cover research analysts covering proposed listings of and listed SFC-authorised REITs in Hong Kong. It is believed that the concerns about analysts' conflicts of interest and the general principles underlying paragraph 16 of the Code of Conduct should also be equally applicable to proposed listings of and listed REITs in Hong Kong.

Question 3

Do you agree that the firm employing research analysts preparing Pre-deal Research reports on a Applicant should be required to establish, maintain and enforce a set of written policies and control procedures to ensure that these analysts are not provided by the firm with any material information or forward looking information (whether qualitative or quantitative), concerning the Applicant that are not:

- (a) reasonably expected to be included in the prospectus; or
- (b) publicly available?

Please explain your views.

We note from the consultation paper that this proposal aims to codify the existing practices for firms to establish, maintain and enforce independence and impartiality between their investment function and research function. We have no objection to the principle.

However, it is not entirely clear what criteria will be used to determine whether certain information could be "reasonably expected" to be included in a prospectus. To improve clarity and certainty of this requirement, we would suggest that the SFC provide further explanation or guidance as to how the "reasonably expected" test will be applied.

Question 4

Do you agree that a research analyst preparing a research report on an Applicant should not seek to obtain from the Applicant or its advisers, any material information or forward looking information (whether qualitative or quantitative), that are:

- (a) not reasonably expected to be included in the prospectus; or
- (b) publicly available?

Please explain your views

We would agree, in principle, as this will help to maintain a level-playing field for all analysts and to ensure equality of source information to be provided to all analysts. However we would also refer you to our response to question 3 above on the desirability of further guidance as to how the "reasonably expected" test will be applied.

Question 5

Do you agree that the proposed amendments to Paragraph 16 of the Code of Conduct set out in Appendix 1 implement the above proposals? Please explain your views.

Question 6

Do you agree that sponsors should take steps to ensure that all material information or forward looking information (whether qualitative or quantitative), 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? Please explain your views.

While Applicants and their directors should bear some responsibility for the contents of their prospectuses, it is not unreasonable to expect sponsors to take steps to ensure that relevant information disclosed or provided to analysts is contained in the relevant prospectus or the relevant listing document, offering circular or similar document, as appropriate.

We foresee that some difficulties may, however, arise in practice. Were, for example, the chairman of an Applicant to make comments about the Applicant's business prospects in a certain market, shortly before the listing, which get picked up by an independent analyst, it appears that this could result in the prospectus having to be withdrawn. If so, what consequences would follow? Further guidance may need to be provided on what minimum steps a sponsor is expected to take.

Question 7

Do you agree that the proposed amendments to the CFA Code of Conduct set out in Appendix 2 implement the above proposal?

Please explain your views.

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