Global Public M&A Guide - Hong Kong

General Legal Framework

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# 2. General Legal Framework

[Last updated: 1 January 2025, unless otherwise noted]

**2.1 Legal framework and key regulatory bodies**

Public takeovers and mergers in Hong Kong are principally regulated by a number of rules and legislation, including:

The Hong Kong Code on Takeovers and Mergers ("**Takeovers Code**"), which applies to takeovers and mergers affecting public companies in Hong Kong and companies and real estate investment trusts with a primary listing in Hong Kong. It sets out the main rules and principles relating to public takeovers and mergers in Hong Kong.

The Takeovers Code does not have the force of law. It is administered by the Executive Director of the Hong Kong Securities and Futures Commission "**SFC**", who may bring disciplinary proceedings for breach of the Takeovers Code before the Takeovers and Mergers Panel ("**Takeovers Panel**"). The Takeovers Panel can impose sanctions (including public censure, public criticism, requiring licensed corporations and financial markets service providers to cease acting for persons in breach, banning advisers from appearing before the SFC or the Takeovers Panel for a stated period of time and requiring compensation to be paid to holders or former holder of securities of listed companies).

The Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited and the Rules Governing the Listing of Securities on GEM of The Stock Exchange of Hong Kong Limited(collectively, "**Listing Rules**"), which apply to companies whose securities are listed on the Main Board or GEM, as the case may be, of The Stock Exchange of Hong Kong Limited ("**Stock Exchange**"). The Listing Rules set out the disclosure and approval requirements in respect of transactions undertaken by the listed companies.

The Listing Rules do not have the force of law. They are enforced by the Stock Exchange's imposition of a wide range of sanctions, including private reprimand, public censure, referral to the SFC and other relevant regulatory bodies, exclusion from the market for a stated period and, ultimately, suspension or cancellation of a company's listing (the latter being very rarely applied).

The Companies Ordinance (Chapter 622 of the Laws of Hong Kong), which regulates compulsory acquisitions and schemes of arrangement for companies incorporated in Hong Kong ("**Companies Ordinance**").

The Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) ("**SFO**"), which establishes a statutory disclosure regime whereby listed companies are required to disclose inside information in a timely manner. It also regulates the disclosure of interests in the securities of listed companies, insider dealing and other market misconduct in relation to the listed securities and their derivatives.

**2.2 General principles**

The following general principles are set out in the Takeovers Code to ensure fair treatment for shareholders who are affected by takeover and merger transactions:

all shareholders are to be treated equally and all shareholders of the same class are to be treated similarly;

if control of a company changes, a general offer to all other shareholders is normally required;

during the course of an offer or when an offer is in contemplation, information must be made available to all shareholders, save for the furnishing of information in confidence by the target company to a potential bidder or vice versa;

a bidder should announce an offer after ensuring that it will be able to implement the offer in full;

shareholders should be given sufficient information, advice and time to reach an informed decision on an offer. All documents relating to an offer must be prepared with the highest possible degree of care, responsibility and accuracy;

all parties involved in an offer should make full and prompt disclosure of all relevant information and take precaution to avoid making statements which may mislead shareholders or the market;

rights of control should be exercised in good faith and oppression of minority shareholders is unacceptable;

directors of the bidder company and the target company should have regard to the interests of their shareholders as a whole and not have regard to their personal or family shareholdings or to their personal relationships with the companies;

the target board should not take actions to frustrate a proposed offer or deny the shareholders the opportunity to decide on its merits; and

all parties involved in takeovers and mergers are required to cooperate to the fullest possible extent with the SFC, the Takeovers Panel and the Takeovers Appeal Committee.

**2.3 Foreign investment restrictions**

See 3.4 below.

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