

Press release

Government to legislate on disclosure of price sensitive information by listed corporations

Friday, February 11, 2011

Announcing the conclusions of a consultation on legislative proposals for price sensitive information (PSI), the Secretary for Financial Services and the Treasury, Professor K C Chan, said today (February 11), "We are pressing ahead with the statutory codification of certain requirements to disclose PSI by listed corporations."

"The objective of the legislative exercise is to cultivate a continuous disclosure culture among listed corporations.

"We believe that a statutory regime is necessary to enhance market transparency and quality," he said. "It helps sustain Hong Kong's position as a premier capital formation centre in the region," Professor Chan said.

Under the legislative proposals, a listed corporation must disclose PSI to the public as soon as reasonably practicable after the PSI (to be referred to as "inside information") has come to its knowledge. The Securities and Futures Commission (SFC) would be the enforcement authority and the Market Misconduct Tribunal (MMT) would determine whether a breach of the PSI disclosure requirement has occurred.

Compared with existing Listing Rules, a statutory regime will provide clearer PSI disclosure requirements, with obligations and safe harbours explicitly set out in the law. It will also empower the SFC to conduct investigation into a suspected breach and enable all alleged breaches to be heard by independent tribunal.

The Financial Services and the Treasury Bureau (FSTB) conducted a consultation from March to June last year on the legislative proposals enhancing PSI disclosure. A total of 110 written submissions were received, mostly from listed corporations, the financial services sector, professional associations as well as investor and consumer groups.

The respondents generally supported the objective of legislative proposals to encourage a continuous disclosure culture among listed corporations and the civil regime. A majority of the respondents agreed with the Government's proposal to borrow the concept of "inside information" currently used in the insider dealing regime to define PSI.

On the proposed safe harbours which aim to safeguard the legitimate interests of listed corporations in preserving certain information in confidence to facilitate its operation and business development, most of the respondents found these safe harbours necessary and useful. The SFC would issue guidelines on the application of safe harbours and disclosure of inside information.

In light of market feedback, the legislative proposal will be refined to facilitate compliance without undermining investor protection. For example, the timing of disclosure would be changed from "as soon as practicable" to "as soon as reasonably practicable" to cater for listed corporations' need to take time to verify the facts and seek professional advice as appropriate and reasonable in the circumstances of a particular case.

To facilitate compliance by listed corporations with substantial business operation outside Hong Kong, the scope of SFC's power will be extended to grant waiver to cover situations concerning prohibition made by a law enforcement authority of a place outside Hong Kong or a government authority of a place outside Hong Kong exercising a power conferred by the legislation of that place.

In line with the objective of cultivating a continuous disclosure culture among listed corporations, the MMT will be empowered to order an officer or a director to undergo training, and to order a listed corporation to appoint an independent professional adviser to review its compliance procedure or advise on compliance matters. These remedial measures for breaching PSI disclosure requirements are introduced to improve corporate governance.

"We aim at introducing the bill into the Legislative Council to amend the Securities and Futures Ordinance in the 2010/11 legislative year," Professor Chan said.

The FSTB has uploaded the consultation conclusions on the proposed statutory codification of certain requirements to disclose PSI by listed corporations onto its website (www.fstb.gov.hk/fsb/ppr/consult/psi.htm) for public viewing.

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