

SPEAKING NOTES (C K Low)
CFRED 4th SECURITIES LAW COLLOQUIUM
3 August 2012

1. What is the role of a sponsor?
 - A key gatekeeper which contributes to ensuring market quality through the conduct of stringent due diligence of potential listing candidates; and
 - An important ‘go between’ that must fully appreciate the implications of facilitating the crucial transformation into a listed company.

2. Have they discharged their duties reasonably?
 - The SFC believes not as ‘*standards of sponsor work have fallen short of reasonable expectations*’ resulting in cases of non-identification of issues which consequence would include the omissions of important disclosures from the listing document. I personally support this observation; and
 - While the problem is not endemic its incidence is nonetheless on the rise raising significant concerns especially for the interests of public shareholders and of the perception of Hong Kong as a robust international financial centre.

3. Are the SFC’s proposals really so bad?
 - Seeking to consolidate all the sponsor obligations in the *Code of Conduct* with a summary set out at pages 4-6 of Consultation Paper (May 2012);
 - Paragraphs 11 through 20 – with the possible exception of paragraph 18 – are neither new nor onerous reflecting as they do the dictates of common sense given the important role assumed by sponsors;
 - Para 21: ‘One Principal or more?’ - My take is to enhance the standards and the sanctions for any breaches thereof and let the markets decide;
 - Para 22: The justification for multiple sponsors is almost as lame as those for cornerstone investors – the latter removes underwriting risks and provides the necessary groundwork towards an institutional market for IPOs; and
 - Para 23: What is wrong with extending the ambit of sections 40 and 40A of the *Companies Ordinance* to parties who are logically largely responsible – together with the directors of the company and the experts and other persons who render specific advice or expertise – for the preparation and distribution of a prospectus? The key question is whether we can afford **not to** do so as only the most egregious are likely to be affected by this.

Overall this ‘public interest’ proposal is an initiative that is worthy of support. That said it is regrettably likely to be watered down.