



**Financial Services Commission  
Mauritius**

***Communiqué***

***Deep River Investment Limited***

**The Commission's response to recent press articles**

1. Further to articles which appeared in the press recently questioning the role of the Financial Services Commission (the "Commission") in relation to a proposed firm intention by GEM Management Limited ("GEM") to make an offer to the Board of Deep River Investment Limited ("DRI"), the Commission notes that its role as regulator appears to have been misunderstood. It is a matter of regret that baseless and gratuitous accusations have been leveled at the Commission, its Chief Executive and its recently appointed Chairman. In these circumstances, the Commission wishes to set the record straight.

**Background**

2. The Commission was copied letters dated 5th March 2012 and 12th March 2012 addressed by GEM to the Chairman of DRI whereby GEM set out its proposed firm intention to make an offer for the shares of DRI.
3. On 5th March 2012, GEM had requested from DRI as part of the conditions precedent receipt of written and unconditional confirmation from the Commission as well as the Stock Exchange of Mauritius Ltd that the proposal made to DRI would not trigger a mandatory offer to all shareholders of any associated companies in which DRI holds more than 30% of the total shareholding including Deep River Beau Champ Ltd and CIEL Investment Ltd. However, DRI made no such request to the Commission.
4. By virtue of a cautionary announcement dated 6th March 2012, DRI stated that numerous shortcomings were found in GEM's proposal. A number of letters were subsequently exchanged between DRI and GEM.
5. On 6th March 2012, DRI, through its legal adviser, requested the Commission to "*set aside this 'intention to make a firm offer' to DRI's shareholders and to exempt DRI from the requirements of sections 11(1) and 12 of the Takeover Rules*".

6. By letter dated 29th March 2012 addressed to the Commission, GEM informed the Commission that it had waived the fulfillment of the FSC mandatory offer clarification as set out in its letter of 5th March 2012.
7. By letter dated 9th April 2012, the Commission, after due consideration, declined the requests from the legal adviser of DRI (and referred to in paragraph 5 above), and informed the latter that if DRI considered that the proposal made by GEM satisfied the requirements of Rules 9 and 10 of the Securities (Takeover) Rules, DRI should act promptly in accordance with the rules concerning communications to shareholders and the public.
8. It is the understanding of the Commission that the Board of DRI took the view that the letter dated 5th March 2012 from GEM did not satisfy the requirements of the law.

#### **The stand of the Commission**

9. The stand taken by the Commission, at all times, has been to remain impartial and independent.
10. The Commission cannot be expected to reply to letters which were not addressed to it for purposes of taking any specific action. It is less than fair to suggest that the Commission should have substituted itself to the Board of one of its licensees and taken action on matters it was not required to address. The Commission cannot be expected to intervene in a dispute involving one of its licensees just because it had been copied on correspondences exchanged between GEM and DRI
11. It was not and is not the role of the Commission to make an assessment of the substance of the letters exchanged between GEM and the Board of DRI or to make any finding or issue any ruling as to whether the proposal submitted by GEM qualified under the Securities (Takeover) Rules as a valid proposal. The Commission cannot be taxed with partiality for having decided not to side with either GEM or DRI. However, it expects the Board of DRI to take responsibility for the stand it took and the announcements it made.

12. The Commission is satisfied that the Chairman duly disclosed his interest in the matter and did not take part in any decision making process.
13. The Commission further takes note that the press article contains defamatory comments and innuendoes concerning the Commission, its Chief Executive and its Chairman. The Commission reserves the right to take any legal action as may be deemed appropriate in the circumstances.

*18 May 2012*

*Financial Services Commission*