



**THE STOCK EXCHANGE OF HONG KONG LIMITED**  
(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)  
(the “Exchange”)

7 June 2012

**The Listing Committee of The Stock Exchange of Hong Kong Limited (the “Listing Committee”) censures:**

- (1) Zhejiang Glass Company Limited (the “Company”) (Stock Code:739) for breaching Rules 13.09(1), 13.17, 13.46(2), 13.48(1), 13.49(1), 13.49(6), 14A.04 and 14A.63 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “Exchange Listing Rules”);**
- (2) Mr Feng Guang Cheng (“Mr Feng”), an executive director and the Chairman of the Company, for breaching:**
  - (a) Rule 3.08(d) and (e); and**
  - (b) the Director’s Declaration and Undertaking given by each of the Directors to the Exchange in the form set out in Appendix 5 Form H to the Exchange Listing Rules (“Director’s Undertaking”) for failing to (i) comply with the Exchange Listing Rules to the best of his ability, (ii) use his best endeavours to procure the Company’s compliance with the Exchange Listing Rules, and (iii) co-operate in the Division’s investigation;**
- (3) Ms Hong Yu Mei, an executive director of the Company (“Ms Hong”);**
- (4) Mr Shen Guang Jun, an executive director of the Company (“Mr Shen”);**
- (5) Mr Jiang Li Qiang, an executive director of the Company (“Mr Jiang”);**
- (6) Mr Gao Huo Jin, a former executive director of the Company (“Mr Gao”), resigned effective 30 June 2009;**
- (7) Mr Liu Jian Guo, a non-executive director of the Company (“Mr Liu”);**
- (8) Mr Xie Yong, a former non-executive director of the Company (“Mr Xie”), resigned effective 30 June 2009;**
- (9) Dr Li Jun, an independent non-executive director of the Company (“Dr Li”);**

- (10) Mr Wang Yan Mou, an independent non-executive director of the Company (“Mr Wang”);
- (11) Mr Su Gong Mei, an independent non-executive director of the Company (“Mr Su”); and
- (12) Mr Zhou Guo Chun, an independent non-executive director of the Company (“Mr Zhou”),

for their respective breaches of their Director’s Undertaking for failing to use best endeavours to procure the Company’s compliance with the Exchange Listing Rules.

The Listing Committee also issues a public statement that, in the Exchange’s opinion, the retention of office by Mr Feng is prejudicial to the interests of investors by reason of his wilful and/or persistent failure to comply with the Exchange Listing Rules and the Director’s Undertakings. In the event that Mr Feng remains in office following publication of this statement, the Exchange may consider exercising the power to suspend or continue the suspension of or cancel the listing of the Company’s shares on the Exchange.

On 22 November 2011, the Listing Committee conducted a hearing (the “**Disciplinary Hearing**”) into the conduct of the Company and the 11 Directors identified at (2) to (12) above (together the “**Directors**”) in relation to their obligations under the Exchange Listing Rules and the Director’s Undertaking.

On 17 April 2012, the Listing Committee conducted a disciplinary (review) hearing (the “**Disciplinary (Review) Hearing**”) on the application by Ms Hong, Mr Shen, Mr Jiang, Mr Liu, Dr Li, Mr Wang, Mr Su and Mr Zhou (together, the “**Review Parties**”) for a review of the decisions of and the sanction imposed by the Listing Committee at first instance.

## **FACTS**

The Company is an H-share company listed on the Exchange on 10 December 2001.

Mr Feng is the Chairman, Executive Director and founder of the Company. At all relevant time, (1) Mr Feng was the Company’s controlling shareholder with him and his associates being beneficially interested in 50.96 per cent of the issued shares of the Company; and (2) Guangyu Group, a PRC company, was owned as to 96 per cent by Mr Feng and therefore a connected person of the Company.

### The Transaction

On 4 May 2008, Mr Feng signed for and on behalf of the Company a loan agreement (the “**Loan Agreement**”) with Ms Ma Hong Mei (“**Ms Ma**”) for Ms Ma’s provision of RMB50 million loan (the “**Loan**”) to the Company for two months at monthly interest of RMB2.25 million. It also stipulated that if the Company made due repayment, Ms Ma agreed to lend the principal amount to the Company further for not more than five times.

On the same day,

- (1) as collateral to the Loan, Mr Feng (i) pledged his 20 million domestic shares in the Company (the “**Pledge**”) and (ii) signed written guarantees (the “**Guarantee**”) for and on behalf of Qinghai Soda Ash Company Limited (“**QSAC**”) and Zhejiang Shaoxing Taoyan Glass Company Limited (“**Taoyan Glass**”), both subsidiaries of the Company; and
- (2) the Company executed (at Mr Feng’s direction) a written instruction to Ms Ma to deposit the Loan into the bank account of Guangyu Group.

On 13 May 2008, Guangyu Group received RMB50 million (the “**Advance**”) directly deposited into its bank account by Ms Ma. Guangyu Group directly repaid Ms Ma the principal sum and interest payable by the Company to Ms Ma under the Loan Agreement on 4 July 2008.

The Loan Agreement, the Pledge, the Guarantee, and the Advance are collectively referred to as the “**Transaction**”. Through the Transaction, Mr Feng caused the Company to obtain funds from Ms Ma to effect the Company’s Advance to Guangyu Group. The Advance was made without any interest or security payable to the Company by Guangyu Group.

Mr Feng asserted that he did not inform or involve any other director of the Company nor did he obtain approval of the Board of the Company before entering into the Transaction and throughout until 22 April 2009 (see below).

#### The PRC Legal Action

In mid December 2008, Mr Feng received a writ of 9 December 2008 (“**Writ**”) issued in the PRC Court by Ms Ma against the Company, QSAC, Taoyan Glass and Mr Feng (together the “**Defendants**”). Ms Ma alleged that she made further loans to the Company under the Loan Agreement; that a second loan of RMB50 million made on 4 July 2008 was repaid on 11 September 2008, but the third loan of RMB50 million made on 11 September 2008 and repayable on 10 November 2008 remained outstanding. Ms Ma claimed repayment of the loan and interest.

Mr Feng allegedly did not inform any other director of the Company of the Writ. He asserted that Ms Ma made the subsequent loans to Guangyu Group, not to the Company. He had allegedly instructed PRC lawyers to prepare defence for the Company and attend the court hearing on 11 February 2009. There were a number of key developments in the legal action over the following months:

- (1) an interlocutory judgment of 12 December 2008 to freeze the assets or bank accounts of the Defendants for up to RMB60 million;
- (2) a “freezing order” of 7 January 2009 to the Qinghai Industrial and Commercial Administration Bureau in respect of 94 million shares held by the Company in QSAC; and
- (3) the judgment handed down by the PRC Court on 22 February 2009 against the Defendants under which the Company was adjudged to pay Ms Ma RMB50 million and interest.

The Writ and the key developments identified above are collectively referred to as the “**PRC Legal Action**”. Mr Feng claimed he was not aware of any of the key developments until 22 April 2009, when QSAC received an Execution Notice concerning the subject matter of the Freezing Order mentioned above; that the PRC lawyers he had instructed on behalf of the Company did not keep him informed of the status and update of the legal action. He also asserted that he only informed the Company and other directors of the Transaction and the PRC Legal Action on 22 April 2009, leading to publication of the Company’s announcement of 12 May 2009 disclosing these matters.

#### Delay in publishing 2008 Annual Results and Report

The Company’s 2008 Annual Results and Report for the year ended 31 December 2008, due on 30 April 2009, were announced and dispatched on 10 and 12 May 2009 respectively.

#### Failure to publish 2009 Annual Results and Report, 2010 Interim Results and Report and 2010 Annual Results and Report

The Company did not announce and dispatch:

- (1) its 2009 Annual Results and Report for the year ended 31 December 2009 due on 30 April 2010;
- (2) its 2010 Interim Results and Report for the six months ended 30 June 2010 due on 30 September 2010; and
- (3) its 2010 Annual Results and Report for the year ended 31 December 2010 due on 30 April 2011.

#### Mr Feng declined the Division’s request for a meeting

Mr Feng was allegedly the only person within the Company with personal and direct knowledge of the Transaction and the PRC Legal Action at all times. Further, there was a wide scope of matters in respect of which the Division believed enquiries were required of Mr Feng. The Division invited Mr Feng to attend a meeting to answer enquiries and indicated that its readiness to be accommodating in agreeing a date for the meeting which was expected to last no more than one day. Despite repeated urging and communication from May to July 2010, Mr Feng declined the request, initially indicating that he was busy and subsequently that he was ill. No meeting was held.

### **FINDINGS OF BREACH BY THE LISTING COMMITTEE**

At the Disciplinary Hearing, the Listing Committee at first instance concluded as follows:

#### **Company**

##### Breach of Rules 13.09, 13.17, 14A.04 and Rule 14A.63 - The Transaction

The Advance was a connected transaction being the Company’s provision of financial assistance to Guangyu Group within the meaning of Rule 14A.13(2).

Rule 14A.04 requires that a listed issuer must enter into a written agreement for all connected transactions. As no written agreement was entered into between the Company and Guangyu Group for the Advance, the Listing Committee concluded that the Company breached Rule 14A.04.

Under Rule 14A.63, financial assistance not exempted under Rule 14A.65 or 14A.66 is subject to the reporting, announcement and shareholder approval requirements. As the Advance was not provided in the ordinary and usual course of business of the Company and not on normal commercial terms, none of the exemption under those Rules applied. As disclosure of the Advance was made only on 12 May 2009 and no shareholder approval has been obtained, the Listing Committee concluded that the Company breached Rule 14A.63.

Rule 13.17 requires disclosure where the controlling shareholder of the issuer has pledged its interest in shares of the issuer to secure debts of the issuer or to secure guarantees or other support of obligations of the issuer. The Company did not publish an announcement disclosing the Pledge on 4 May 2008. It was disclosed only on 12 May 2009. The Listing Committee therefore concluded that the Company breached Rule 13.17.

The Listing Committee also found that the Transaction was discloseable under Rule 13.09(1)(a) namely, it was information necessary for shareholders and the public to appraise the position of the Group for the following reasons:

- (1) The Company's auditors had expressed the opinion as to material uncertainty regarding the ability of the Group to continue as going concern in each of the Company's 2005-2007 Annual Reports. Current liabilities exceeding current assets to the extent of RMB1,786 million to RMB1,909 million. As at 31 December 2007, the Group's current liabilities exceeded its current assets by RMB1,909 million.
- (2) Provision of advances or financial services was not and is not a normal commercial activity of the Company.
- (3) The receipt of a RMB50 million loan from a third party (Ms Ma) with which the Company made the Advance (of an equivalent sum) to Guangyu Group (a private Company essentially owned by Mr Feng) represented 18 per cent of the Group's profit in 2007.
- (4) Whilst the Company was exposed to an interest of RMB2.25 million per month (equivalent to 54 per cent per annum) to Ms Ma for the Loan, it did not charge Guangyu Group any interest or require any security for the Advance. Guangyu Group defaulted in repayment of both principal and interest to Ms Ma at the stipulated deadline. The Company was therefore exposed to the financial risk as a result of the Transaction which had been entered into by Mr Feng.

The Company was committed to the Transaction by the action and with knowledge of Mr Feng in May 2008. Under Rule 13.09, the Company was required to disclose the Transaction on 4 May 2008. By failing to disclose the Transaction until 12 May 2009, the Listing Committee concluded that the Company breached Rule 13.09.

### Breach of Rule 13.09(1) - The PRC Legal Action

The Listing Committee also considered that the PRC Legal Action was also information discloseable under Rule 13.09(1)(a) for the following reasons:

- (1) The PRC Legal Action was material given (a) the Company's financial position referred to above, (b) the Company was exposed to at least a contingent liability of RMB50 million and interest, and (c) the PRC Legal Action allegedly arose from the Transaction which was brought into existence by Mr Feng in the manner described above and which had not been disclosed to shareholders or the market.
- (2) The interlocutory judgment and the freezing order purported to freeze the assets/bank accounts of the Company and two subsidiaries up to RMB60 million, which might adversely impact their cash flow and business operations.
- (3) The judgment created a real, not contingent, liability against the assets of the Company to the extent of RMB50 million plus interest.

The Company's obligation to disclose the PRC Legal Action under Rule 13.09 was established through the attribution of Mr Feng's knowledge of events in question. Mr Feng asserted limited knowledge of the PRC Legal Action prior to 22 April 2009. The Listing Committee shared the Division's view that this assertion lacks credibility given the overall circumstances at the time, particularly given Mr Feng himself was one of the defendants and as Mr Feng acknowledged, he was aware of certain steps in the course of the legal action. In any event, he was aware of the Writ in December 2008 and he could and should have proactively sought updates and reports of the legal action from the PRC lawyers.

Under Rule 13.09, the Company was obliged to disclose (i) the Writ in mid December 2008, and (ii) the key developments in the legal action on or shortly after the dates of the respective key developments. No disclosure of the existence or status of this material PRC Legal Action impacting the affairs of the Company was made until 12 May 2009. The Listing Committee concluded that the Company breached Rule 13.09.

### Breach of Rules 13.46(2), 13.48(1), 13.49(1) and 13.49(6) - Breach of Financial Reporting Obligations

The Company delayed publication of the 2008 Annual Results and Report. It did not publish and dispatch the 2009 Annual Results and Report, 2010 Interim Results and Report and 2010 Annual Results and Report (see the Facts section above). The Listing Committee concluded that the Company breached Rules 13.46(2), 13.49(1), 13.48(1) and 13.49(6).

## **Internal Controls**

The Company submitted that it “*refers to the Listing Rules for guidance regarding compliance under the general disclosure obligations and connected transactions and has not formulated internal policy and/or procedures in this regard*”. The Listing Committee noted that the Company did not maintain a list of connected persons. There was no internal control regarding the identification, reporting and approval of connected transactions and financial assistance transactions. There was also no procedure and guidance in place to assist the Company in identifying potential price-sensitive information discloseable under Rule 13.09.

The Listing Committee therefore concluded that the Company failed to maintain adequate and effective internal controls to ensure its Rule compliance throughout the relevant period.

## **Mr Feng**

Rule 3.08(d) and (e) requires that every director must “*avoid actual and potential conflicts of interest and duty*” and “*disclose fully and fairly his interest in contracts with the listed issuer*”.

The Listing Committee found that by reason of his interest and position in the Company and Guangyu Group as well as the facts and circumstances in which the Transaction took place, Mr Feng (i) had a conflict in causing the Company and its two subsidiaries to enter into the Transaction; (ii) should have declared his interest in the proposed Transaction to the Company, informed other directors, abstained from direct involvement in the Company’s approval of the Transaction, and obtained the Board’s prior approval before entering into the Transaction. Mr Feng had not done so.

The Listing Committee also found that Mr Feng failed to use his best endeavours to procure the Company’s Rule compliance, in particular:

- (1) Despite being directly involved in and/or having knowledge of the Transaction and the PRC Legal Action at the relevant time, he (i) failed to take action to procure the Company’s compliance with the Exchange Listing Rules; and (ii) did not inform any other directors of the Company of these matters until late April 2009.
- (2) His late disclosure of the Transaction and the PRC Legal Action to the Company and the other directors resulted in the delayed publication/dispatch of the Company’s 2008 Annual Results and Report.
- (3) As a member of the Board, Mr Feng failed to ensure the Company had adequate and effective internal controls to ensure the Company’s compliance with the Exchange Listing Rules.

Mr Feng also signed the Director’s Undertaking to the Exchange undertaking to, among other things, “*cooperate in any investigation conducted by the Listing Division...including...attending before any meeting or hearing at which I am requested to appear*”.

The Listing Committee noted Mr Feng's failure to attend a meeting required by the Division during its investigation of possible Rule breaches arising from the Transaction and the PRC Legal Action. The Listing Committee did not regard his reasons for not attending the proposed meeting requested by the Division as acceptable.

The Listing Committee therefore concluded that Mr Feng breached:

- (1) Rule 3.08(d) and (e);
- (2) by reason of his breach at (1) above, the Director's Undertaking to comply with the Exchange Listing Rules to the best of his ability;
- (3) the Director's Undertaking for failing to use his best endeavours to procure the Company's compliance with the Exchange Listing Rules; and
- (4) the Director's Undertaking to co-operate in the Division's investigation.

The Listing Committee further concluded that Mr Feng's breaches of the Exchange Listing Rules and the Director's Undertaking identified above were wilful and persistent.

In light of Mr Feng's conduct in the matters, the Listing Committee has asked the Listing Division to refer the case to the SFC and other regulatory authorities for investigating whether criminal offence had been committed.

#### **Other Directors' (except Mr Feng) breach of the Director's Undertaking**

While the other ten Directors (identified at (3) to (12) in this news release) might not have been aware of the Transaction and the PRC Legal Action before 22 April 2009, these Directors had not demonstrated to the Listing Committee's satisfaction with evidence that they had taken any steps to ensure the Company had adequate internal controls over the years. Whilst they asserted that they had annually reviewed the Company's internal controls, they were unable to produce any supporting evidence or details despite the Division's request. The Listing Committee noted that all these directors were appointed before June 2007, with Mr Liu, Mr Wang and Dr Li in office upon the Company's listing in 2001. Ms Hong and Mr Su have been in office since 2004 and 2005 respectively. The four Independent Non-Executive Directors were also members of the Audit Committee mandated to review the Company's internal control and ensure that the Company's management had discharged its duty to have an effective internal control system.

The Listing Committee therefore concluded that members of the Board of Directors (other than Mr Feng) also breached their Director's Undertakings for failing to use their best endeavours to procure the Company's compliance with the Exchange Listing Rules in that they had failed to ensure that the Company had adequate internal controls in place to ensure the Company's Rule compliance.



The Listing Committee noted with concern that after allegedly becoming aware of the Advance in April 2009, the Board opined that the Advance to Guangyu Group was “*fair and reasonable and in the interests of the Company and its shareholders as a whole*”, notwithstanding the arrangements through which the Advance was effected. The Listing Committee agreed with the view of the Division that this indicated the Directors’ lack of proper understanding of their directors’ duties.

The Listing Committee also noted that the Listing Division was not asserting a breach of the Director’s Undertaking on the part of these Directors in respect of the substantive breaches of the Exchange Listing Rules by the Company. These Directors’ breach of the Director’s Undertakings was therefore confined to their failure to use their best endeavours to procure the Company’s compliance with the Exchange Listing Rules in that they had failed to ensure that the Company had adequate internal controls in place to ensure the Company’s Rule compliance. The Listing Committee further noted that Mr Gao and Mr Xie resigned from the Board on 30 June 2009 and the Company’s breaches relating to the failure to publish the 2009 Annual Results and Report, 2009 Interim Results and Report and the 2010 Annual Results and Report (the “**Relevant Reports**”) occurred after their resignation. Mr Gao’s and Mr Xie’s breach of the Director’s Undertaking therefore did not relate to the Relevant Reports.

At the Listing (Disciplinary Review) Hearing, the Listing Committee upheld the findings and decisions of the Listing Committee at first instance on the Review Parties. The board of directors of a listed company is collectively responsible for the management and operations of the company. The Review Parties had not demonstrated to the Listing Committee that they had: (i) put in place adequate internal control procedures to prevent the Company’s breaches of the Exchange Listing Rules; and (ii) taken proactive steps to keep themselves informed of the Company’s affairs.

## **SANCTIONS**

The Listing Committee at first instance decided to:

- (1) censure the Company for its breaches of Rules 13.17, 13.09(1), 13.46(2), 13.48(1), 13.49(1), 13.49(6), 14A.04 and 14A.63;
- (2) censure Mr Feng for his breaches of Rule 3.08(d), Rule 3.08(e) and the Director’s Undertaking;
- (3) censure Ms Hong, Mr Shen, Mr Jiang, Mr Gao, Mr Liu, Mr Xie, Dr Li, Mr Wang, Mr Su and Mr Zhou for their respective breaches of the Director’s Undertaking; and
- (4) state that, in the Exchange’s opinion, by reason of Mr Feng’s wilful and persistent breaches of the Exchange Listing Rules and the Director’s Undertaking with his conduct described above, the retention of office by Mr Feng is prejudicial to the interests of investors under Rule 2A.09(7).

The Listing Committee on review decided to endorse the sanction imposed by the Listing Committee at first instance on the Review Parties.

Further, the Listing Committee at first instance directed as follows:

- (1) Trading in the Company's shares is not to resume unless all resumption conditions and requirements set out in the Division's letter of 11 November 2010 (as described in the Company's announcement of 29 November 2010) are fulfilled to the satisfaction of the Division, including in particular those as to review and improvement of the Company's internal controls (the "**Resumption Direction**").
- (2) In the event that Mr Feng remains in office as a director of the Company following publication of the public statement made against him under Rule 2A.09(7) at (4) above, the Exchange may, notwithstanding the Resumption Direction, consider exercising the power under Rule 2A.09(8) to suspend, continue to suspend, or cancel the listing of the Company's shares on the Exchange.
- (3) The Company is to appoint an independent professional adviser satisfactory to the Division on an ongoing basis for consultation on Exchange Listing Rule compliance (the "**Compliance Adviser**") for a period for two years within two weeks from the publication of this News Release. The Company is to submit the proposed scope of retainer to the Division for comment before appointment of the Compliance Adviser. The Compliance Adviser shall be accountable to the Audit Committee of the Company.
- (4) Each of the Directors who are currently still on the Board according to the filings lodged with the Exchange, namely Mr Feng, Ms Hong, Mr Shen, Mr Jiang, Mr Liu, Dr Li, Mr Wang, Mr Su and Mr Zhou, is to undergo 24 hours of training covering eight core topics together with six hours on connected transactions provided by the HKIoD, HKICS or other course providers approved by the Division (the "**Training**"). The Training is to be completed within 180 days from the publication of this News Release. The Company shall provide the Division with the training provider's written certification of full compliance with the Training requirement by these Directors within two weeks after full compliance. Notwithstanding this direction, the Listing Committee remains of the view that the retention of office by Mr Feng is prejudicial to the interests of investors.
- (5) As a pre-requisite of any future appointment as a director of any company listed on the Exchange, Mr Gao and Mr Xie, who are currently not on the Board and are not directors of other companies listed on the Exchange, is to attend the Training, to be completed before the effective date of any such appointment. Each of Mr Gao and Mr Xie shall provide the Division with the training provider's written certification of full compliance with the Training requirement.
- (6) The Company is to publish an announcement to confirm that each of the directions at (3) and (4) above has been fully complied with within two weeks after the respective fulfillment of each of the directions. The last announcement required to be published under this requirement is to include the confirmation that all directions at (3) and (4) above have been complied with.

- (7) The Company is to submit drafts of the announcements for the Division's comment and may only publish the announcements after the Division has confirmed it has no further comment on them.

The Listing Committee on review endorsed paragraphs 4 and 6 of the above directions made in respect of the Review Parties.

For the avoidance of doubt, the Exchange confirms that this public censure and public statement under Rule 2A.09(7) apply only to the Company and the relevant Directors identified above and not to any other past or present members of the Company's Board of Directors.