

香港聯合交易所有限公司

(香港交易及結算所有限公司全資附屬公司)

THE STOCK EXCHANGE OF HONG KONG LIMITED

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

23 November 2016

THIS DISCIPLINARY ACTION reminds issuers that the failure to follow the company's internal controls procedures could lead to non-compliance of the disclosure and shareholder approval requirements under the Listing Rules and expose the company to substantial financial and regulatory risk.

The Company, as a listed subsidiary of a listed issuer, has an independent regulatory duty to comply with the Listing Rules. Notwithstanding the listed parent may have already been sanctioned by the Listing Committee, listed subsidiaries are subject to separate disciplinary proceedings, if appropriate, for breaches of the Listing Rules concerning the same subject matter.

The Listing Committee of The Stock Exchange of Hong Kong Limited ("Listing Committee") CRITICISES Global Sweeteners Holdings Limited ("Company") (Stock Code: 3889) for its failure to comply with the requirements under the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited ("Listing Rules"), in respect of

- (1) Supplier Guarantees granted in 2010, 2011, 2012, 2013 and 2014, being
 - (a) advances to entities and failing to announce and make disclosure in the interim and/or annual reports for the respective periods in 2010, 2011, 2012, 2013 and 2014 in breach of Rules 13.13, 13.14 and 13.20; and
 - (b) major transactions and failing to announce, issue a circular and seek independent shareholders' approval in breach of Rules 14.34, 14.38A, 14.40 and 14.41; and
- (2) GBT Financial Assistance provided in December 2014 and February 2015, being
 - (a) advances to entities and failing to announce the same in breach of Rule 13.13; and
 - (b) connected and major transactions by failing to announce, issue a circular and seek independent shareholders' approval in breach of Rules 14.34, 14.38A, 14.40, 14.41, 14A.35 and 14A.36.

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On 11 October 2016, the Listing Committee conducted a hearing into the conduct of the Company in relation to its obligations under the Listing Rules.

Background / Facts

The Company and its subsidiaries (“**Group**”) is engaged in the business of manufacturing and sale of corn refined products and corn based sweetener products.

Global Bio-chem Technology Group Company Limited (Stock Code: 809) (“**GBT**”) is the controlling shareholder of the Company holding 64.04 per cent of its entire issued share capital. On 23 August 2016 the Listing Committee found that GBT and four of its former executive directors breached the provisions relating to advances to entities (Rules 13.13, 13.14 and 13.20) and major transactions (Rules 14.34, 14.38A, 14.40 and 14.41) in respect of the Supplier Guarantees entered into by GBT and its relevant subsidiaries (as further described below). The same Supplier Guarantees, in so far as they relate to the Company’s subsidiaries, form the subject matter of this disciplinary action.

Supplier Guarantees

In or around November 2010, a subsidiary of the Company together with GBT and eight of GBT’s subsidiary companies each granted a guarantee in favour of Bank of China (“**BOC**”) for the benefit of a long term supplier (“**Supplier Guarantee**”) for a maximum guaranteed amount of RMB3 billion. The supplier is beneficially owned by the labour union of the PRC employees of both the Company’s and GBT’s group of companies. The Supplier Guarantees were renewed for the years 2011 and 2012. In 2011, an additional subsidiary of the Company, formerly a subsidiary of GBT, also provided a Supplier Guarantee.

In 2014 and 2015, the Supplier Guarantees were further renewed by the Company’s subsidiary and four subsidiaries of GBT for maximum guaranteed amounts of RMB2.5 billion each year.

The Supplier Guarantees constituted (1) major transactions under Rule 14.06 (applicable percentage ratios either alone or aggregated exceeding 25 per cent); and (2) advances to an entity under Rule 13.13 (assets ratio over 8 per cent), thereby subject to reporting, announcement and independent shareholders’ approval.

The Company did not issue any announcement, circular or seek independent shareholders’ approval for each of the Supplier Guarantees at the material time. Further, no disclosures concerning the Supplier Guarantees were made in the annual reports for the years ended 2010, 2011, 2012, 2013 or 2014; or interim reports for the period ended 30 June 2012, 2013 or 2014. The Supplier Guarantees were not announced until 31 March 2015 (“**Announcement**”).

GBT Financial Assistance

In December 2014 and February 2015, two subsidiaries of the Company provided mortgages over property belonging to the Company in favour of Jilin Bank (“**Mortgage A**”) and China Merchants Bank (“**Mortgage B**”) respectively as security for banking facilities granted to certain subsidiary companies of GBT (“**GBT Financial Assistance**”).

The GBT Financial Assistance constituted (1) connected transactions; (2) advances to an entity under Rule 13.13 (aggregate assets ratio over 8 per cent); and (3) major transactions under Rule 14.06 (applicable percentage ratios either alone or aggregated exceeding 25 per cent) thereby subject to announcement and independent shareholders' approval.

The Company did not issue any announcement, circular or seek independent shareholders' approval for the GBT Financial Assistance at the material time. The GBT Financial Assistance was not disclosed until the Announcement.

Admission of breaches

The Company stated that notwithstanding the internal controls and procedures in place at the time, they were not followed by the relevant directors and authorised signatories of the Supplier Guarantees and GBT Financial Assistance. By the Announcement, the Company admitted its breaches of Rules 13.13, 13.14, 13.20, and requirements under Chapters 14 and 14A of the Listing Rules in respect of the Supplier Guarantees and/or the GBT Financial Assistance.

Listing Committee's findings of breach

Having considered the submissions of the Department and the Company, including its admissions, the Listing Committee concluded as follows:

The Company breached:

- (1) Listing Rules requirements for advances to entities (Rules 13.13, 13.14 and 13.20) and major transactions (Rules 14.34, 14.38A, 14.40 and 14.41) in respect of the Supplier Guarantees granted in 2010, 2011, 2012, 2013 and 2014; and
- (2) Listing Rules requirements for advances to entities (Rule 13.13); major transactions (Rules 14.34, 14.38A, 14.40 and 14.41); and connected transactions (Rules 14A.35 and 14A.36) in respect of the GBT Financial Assistance provided in December 2014 and February 2015.

Regulatory Concern

The Listing Committee regards the breaches in this matter serious:

- (1) The principles behind the Listing Rules are to maintain confidence in the market; to ensure investors are given sufficient information to make a properly informed assessment of the issuer; and investors and the public are kept fully informed of material factors which might affect their interests.
- (2) Rules 13.13 and 13.14 protect shareholders by ensuring that they are well informed in a timely manner about substantial advances made by the listed company to entities. Rules 14.34, 14.38, 14.40, 14A.35 and 14A.36 also serve to safeguard shareholders' rights by requiring timely and detailed disclosure of notifiable transactions by way of announcement and circular, as well as requiring prior shareholders' approval in respect of major transactions with third parties and/or connected parties.

- (3) Although the Supplier Guarantee provided by the Company's subsidiary was only one out of the set of ten Supplier Guarantees provided by the GBT and its subsidiaries, the Company is a separate listed entity with independent regulatory obligations under the Listing Rules. The Supplier Guarantees entered into by the Company's subsidiaries exposed the Company to a potential risk that was and continues to be very significant.
- (4) There was no proper risk assessment carried out in respect of Supplier Guarantees. The amounts guaranteed were significant. The Company was exposed to substantial financial risk if the supplier had defaulted on the facilities granted to it by BOC. Notwithstanding the fact that when the Supplier Guarantees were first entered into, the Company's financial position was stronger than present, the continuation of the Supplier Guarantees have exposed, and continues to expose, the Company to a seriously high level of financial risk, particularly in currently challenging financial circumstances.
- (5) With regard to the GBT Financial Assistance, notwithstanding the Company's statement in the Announcement that Mortgage A and Mortgage B would not result in any significant loss to the Group. The GBT Financial Assistance, given its nature and value nonetheless exposed the Company to substantial risk and regulatory implications.

Sanction

Having made the findings of breach stated above, and having concluded that the breaches are serious, the Listing Committee is highly critical of and decides to CRITICISE the Company for its breach of Rules 13.13, 13.14, 13.20, 14.34, 14.38A, 14.40, 14.41, 14A.35 and 14A.36.

The Listing Committee acknowledged the level of cooperation received from the Company during the Listing Department's investigation.

For the avoidance of doubt, The Stock Exchange of Hong Kong Limited confirms that the above sanction apply only to the Company and not to any past or present members of the board of directors of the Company.