

STATEMENT OF DISCIPLINARY ACTION

Exchange's Disciplinary Action against Mingfa Group (International) Company Limited (Stock Code: 846) and Four Directors

SANCTIONS AND DIRECTIONS

The Stock Exchange of Hong Kong Limited (**Exchange**)

CENSURES:

(1) **Mingfa Group (International) Company Limited** (Stock Code: 846) (**Company**);

IMPOSES A PREJUDICE TO INVESTORS' INTERESTS STATEMENT against:

(2) **Mr Wong Wun Ming**, former NED and Chairman of the Company (**Mr Wong**);

(3) **Mr Huang Qingzhu**, former ED and Chief Executive Officer of the Company (**Mr QZ Huang**);

CENSURES:

(4) **Mr Huang Lianchun**, former ED and Chief Operating Officer of the Company (**Mr LC Huang**); and

(5) **Mr Huang Li Shui**, former ED of the Company (**Mr LS Huang**).

AND FURTHER DIRECTS:

Each of Mr LC Huang and Mr LS Huang to attend 24 hours of training on regulatory and legal topics including Listing Rule compliance.

(The directors identified at (2) to (5) above are collectively referred to as the **Relevant Directors**.)

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The statement made in respect of Mr Wong and Mr QZ Huang above is made in addition to a public censure against each of them. The Prejudice to Investors' Interests Statement is a statement that, in the Exchange's opinion, had Mr Wong and Mr QZ Huang remained on the board of directors of the Company, the retention of office by them would have been prejudicial to the interests of investors.

SETTLEMENT

The Company and the Relevant Directors agreed to settle this disciplinary action. They admitted their respective breaches as set out further below and accept the sanctions and directions imposed on them by the Listing Committee.

SUMMARY OF FACTS

Sale of 8 Villas – Connected Transactions

On 25 December 2013, the Company's group (**Group**) entered into eight contracts (**Villa Contracts**) to sell the use rights of eight villas to Mr Wong, Mr QZ Huang and family members of the Relevant Directors, who are brothers, for an aggregate sum of RMB189 million (**Sale of 8 Villas**).

The Villa Contracts constituted connected transactions of the Company. The Company failed to comply with the announcement requirement under Chapter 14A of the Listing Rules.

At the relevant time, the Relevant Directors were aware of, and authorised Mr Wong to be in charge of, the Sale of 8 Villas. The other board members were not aware of the Sale of 8 Villas.

Despite a requirement under the Villas Contracts for full payment by 26 December 2013, it was not until December 2015 that the consideration for the eight villas was fully paid.

Intended Disposal – Discloseable and Connected Transaction

On 20 December 2014, the Company and a purchaser (**Mr WC Wong**, being the cousin of the Relevant Directors) entered into an agreement (**Equity Transfer Contract**), pursuant to which the Company agreed to sell 51 per cent equity interest in a subsidiary (**Tianjin Subsidiary**) to Mr WC Wong for RMB663 million (**Intended Disposal**). The Equity Transfer Contract was subsequently terminated in September 2016.

Mr WC Wong was a deemed connected person of the Company, and the Intended Disposal constituted a discloseable and connected transaction of the Company. The Company failed to comply with the announcement and the independent shareholder approval requirements in accordance with Chapters 14 and 14A of the Listing Rules.

Mr Wong negotiated, approved and signed the Equity Transfer Contract on the Company's behalf. While the Relevant Directors were aware of the Intended Disposal, the rest of the board was not aware of the Intended Disposal. After the receipt of 5 per cent of the consideration for the Intended Disposal, Mr Wong approved the handover of the Tianjin Subsidiary's stamps and business licence, among other legal documents, to Mr WC Wong. Mr Wong admitted that he did not intend to transfer the equity interest before receiving full payment, notwithstanding the contractual requirement to transfer the equity interest after 5 per cent payment under the Equity Transfer Contract.

Framework Agreements

On 5 January 2013, the Group entered into two framework agreements with two counterparties (being Mr Wong's brother-in-law (**Mr Chen**) and Mr Chen's related entity), pursuant to which the parties agreed that they could borrow money from each other during a term of five years and the loans would bear an interest rate of 20 per cent above current bank rate payable at the end of the five-year term (**Framework Agreements**). Between 2013 and 2017, the Company had borrowed, and advanced, loans from / to entities related to Mr Chen pursuant to the Framework Agreements.

The Framework Agreements were negotiated, approved and signed Mr Wong without notifying the Board. The Framework Agreements were kept by Mr Wong and were not provided to the Company's auditor until March 2016. Mr Wong, Mr QZ Huang and Mr LC Huang had approved the repayments of the loans borrowed by the Group pursuant to the Framework Agreements. None of the other then directors knew about the Framework Agreements before March 2016.

Sale of 42 Villas

On 18 November 2015, the Group entered into tripartite agreements (**Transfer Agreements**) with two main contractors and a sub-contractor, under which the parties agreed to partially settle the debts (in the sum of RMB644 million out of RMB743.11 million) owed by the Group to the two main contractors, by transferring the use rights of 42 villas developed by the Group to the sub-contractor (to whom the two main contractors were indebted). The sub-contractor in turn assigned Mr WC Wong and Mr Chen to take up the 42 villas. The Group then entered into further agreements with Mr WC Wong and Mr Chen who took delivery of all 42 villas in December 2015.

Mr Wong approved the arrangement and was responsible for negotiating and approving the agreements in relation to the Sale of 42 Villas. Before entering into the Sale of 42 Villas, no professional valuation was conducted to assess the value of the villas.

Chengdu Menggu Transfers

In 2015, the Group entered into an arrangement, under which it transferred its equity interests in a wholly owned company (**Chengdu Menggu**) to an entity owned by Mr Chen and subsequently to a third party company (**Chengdu Menggu Transfers**). The consideration for the transfers were paid by, and returned back to, the Group. According to the Company, the transfers were for interim holding purpose upon the advice of its legal adviser. The Company did not obtain any collateral from the transferees at the time of the transfers. In December 2017, the third party transferee made a written declaration that it would transfer Chengdu Menggu back to the Company at nil consideration.

The Chengdu Menggu Transfers, the equity transfer agreements and the related payments were approved by Mr Wong. Apart from Mr Wong, none of the then directors of the Company was aware of the Chengdu Menggu Transfers or the related agreements and payments.

Wuxi Sanyang Investment

In March 2015, the Group entered into a strategic cooperation agreement with a third party entity (**Wuxi Sanyang**) and a guarantor in relation to the Group's intended investment in a property project being built by Wuxi Sanyang (**Wuxi Sanyang Investment**). Without performing any due diligence on Wuxi Sanyang, the Group made a deposit payment of RMB15 million to Wuxi Sanyang.

Under the strategic cooperation agreement, Wuxi Sanyang was required to return the deposit after 15 months if the investment did not materialise. Wuxi Sanyang did not return the deposit by the agreed deadline and went into liquidation. The Group only recovered approximately RMB2.3 million from the administrator in 2018.

Mr LC Huang approved the Wuxi Sanyang Investment, the strategic cooperation agreement and the deposit payment. He delegated the implementation of the contractual obligations under the strategic cooperation agreement, including recovery of the deposit, to the Group's staff.

Late Financial Reporting

The Company failed to publish / despatch the following interim and annual results and reports (together, **Results and Reports**) within the deadlines required under Chapter 13 of the Listing Rules:

Results / Report	Period end	Due date	Publication date	Delay
2015 Annual Report	31/12/2015	30/04/2016	31/01/2019	33 months
2016 Interim Results	30/06/2016	31/08/2016	26/07/2019	34 months+
2016 Interim Report	30/06/2016	30/09/2016	26/07/2019	33 months+
2016 Annual Results	31/12/2016	31/03/2017	02/07/2019	27 months+
2016 Annual Report	31/12/2016	30/04/2017	11/07/2019	26 months+
2017 Interim Results	30/06/2017	31/08/2017	26/07/2019	22 months+
2017 Interim Report	30/06/2017	30/09/2017	26/07/2019	21 months+
2017 Annual Results	31/12/2017	31/03/2018	02/07/2019	15 months+
2017 Annual Report	31/12/2017	30/04/2018	11/07/2019	14 months+
2018 Interim Results	30/06/2018	31/08/2018	26/07/2019	10 months+
2018 Interim Report	30/06/2018	30/09/2018	26/07/2019	9 months+
2018 Annual Results	31/12/2018	31/03/2019	02/07/2019	3 months+
2018 Annual Report	31/12/2018	30/04/2019	11/07/2019	2 months+

Internal Controls

At the relevant time of the above transactions, the Relevant Directors (being the then EDs of the Company) were in charge of the Group's overall management and operations.

After the fund flows relating to the above transactions were discovered, both Ernst & Young (China) Advisory Limited (**EY**) and BDO Financial Services Limited (**BDO**) found deficiencies in the Company's internal controls. Among other things, EY / BDO found that the Company did not have written contract management procedures and did not have reconciliation procedures for large transactions; it did not establish a conflict of interest policy requiring employees to declare existing and potential conflicts; the list of connected persons and notifiable transactions were not distributed to its subsidiaries; there was no written agreement requirement for loan transactions between the Company and its directors, no written financing management policy for the Group, and no retention of assessment and approval records on loan and contract terms; and it did not keep its internal audit reports.

BDO recommended a number of remedial measures, which the board of directors agreed to adopt to address the internal control deficiencies identified. According to the Company's announcement of 30 April 2019, the recommended measures were implemented.

RULE REQUIREMENTS

Rules 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) stipulate the timing for the publication or despatch of a listed issuer's preliminary announcement of interim and annual results and interim and annual reports.

Rules 14.34 requires listed issuers to publish an announcement as soon as possible after the terms of a discloseable transaction have been finalised.

Rules 14A.35 and 14A.36 require listed issuers to comply with the announcement and independent shareholder approval requirements for connected transactions.

Under Rules 3.08, 3.16 and 13.04 of the Listing Rules, directors of listed issuers are both collectively and individually responsible for the Company's management and operations, and are collectively and individually responsible for the Company's compliance with the Listing Rules.

Rule 3.08 provides that the Exchange expects the directors, both collectively and individually, to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. These duties include the duty to act honestly and in good faith in the interests of the company as a whole (Rule 3.08(a)), to act for proper purpose (Rule 3.08(b)), to avoid actual and potential conflicts of interest and duty (Rule 3.08(d)), to disclose fully and fairly his/her interests in contracts with the issuer (Rule 3.08(e)) and to apply such degree of skill, care and diligence as may reasonably be expected of a person of his/her knowledge and experience and holding his/her office within the issuer (Rule 3.08(f)).

Rule 3.08 highlights the importance of directors taking an active interest in the issuer's affairs and having a general understanding of its business. This includes an obligation that they must follow up anything untoward that comes to their attention.

A director of a listed issuer is under an obligation, pursuant to his/her Undertaking, to comply to the best of his/her ability with the Listing Rules and use his/her best endeavours to procure the Company's compliance with the Listing Rules.

Further, under the Corporate Governance Code (CG Code) (Appendix 14 to the Listing Rules), directors are required, among others, to oversee the issuer's risk management and internal control systems on an ongoing basis and ensure that a review of the effectiveness of the issuer's and its subsidiaries' risk management and internal control systems has been conducted at least annually, and when conducting their annual review, the directors should consider the effectiveness of the issuer's processes for financial reporting and Rule compliance (then code provisions C.2.1 and C.2.3 of the CG Code).

LISTING COMMITTEE'S FINDINGS OF BREACH

The Listing Committee found as follows:

- (1) the Company breached:
 - (a) Rules 14.34, 14A.35 and 14A.36 in respect of the Intended Disposal;
 - (b) Rule 14A.35 in respect of the Sale of 8 Villas; and
 - (c) Rules 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) in respect of the Results and Reports.

- (2) Mr Wong breached Rule 3.08 and his Undertaking to comply with the Rules to the best of his ability in relation to the Intended Disposal, the Sale of 8 Villas, the Sale of 42 Villas, the Framework Agreements and the Chengdu Menggu Transfers and to use his best endeavours to procure the Company's Rule compliance. In particular:
- (a) Mr Wong approved the Intended Disposal and the Sale of 8 Villas without informing the Board or declaring and/or avoiding his conflicts of interest. He knew the Intended Disposal and the Sale of 8 Villas were never tabled before the board for consideration and approval, but did not take any follow-up step to ensure the Company's compliance with the Listing Rules.
 - (b) Besides, Mr Wong failed to discharge his director's duties in approving the Intended Disposal under terms with which he had no intention to comply and in approving the handover of Tianjin Subsidiary's company stamps and legal documents. His actions exposed the Company to litigation risk and the risk of unauthorised use of the Group's stamps.
 - (c) In relation to the Sale of 8 Villas, Mr Wong did not demonstrate that he had taken sufficient steps to ensure the villas would be disposed of at a fair and reasonable value, and he failed to monitor the purchasers' (including his own) timely payment in accordance with the terms of the Villas Contracts, to act honestly and in good faith in the company's interests and for proper purpose and to disclose fully and fairly his interests in the sale.
 - (d) No professional valuation was conducted before Mr Wong's approval of the Sale of 42 Villas. He failed to take sufficient steps to ensure that the villas would be transferred at a fair and reasonable value.
 - (e) In approving the Framework Agreements, which provides for a reciprocal loan arrangement without monetary limit, Mr Wong failed to avoid actual and/or potential conflicts of interest in the Framework Agreements. He failed to ensure adequate and effective internal controls were put in place for the Group's external loans and to inform the board of the agreements to provide financial assistance to Mr Chen and his related entities, and hence failed to place the board in a position to consider the Framework Agreements and their Listing Rules implications.
 - (f) There is no evidence of any steps taken to protect the Company's interests in Chengdu Menggu prior to December 2017. Mr Wong breached his director's duties in failing to ensure the Group's interests in the Chengdu Menggu Transfers were adequately protected and in approving a RMB53 million payment, as opposed to the contract amount, to the third party transferee.

- (3) Mr QZ Huang breached Rule 3.08 and his Undertaking to comply with the Rules to the best of his ability in relation to the Intended Disposal, the Sale of 8 Villas and the Framework Agreements and to use his best endeavours to procure the Company's Rule compliance:
- (a) Mr QZ Huang was aware of the Intended Disposal and the Sale of 8 Villas. He was one of the purchasers in the Sale of 8 Villas. Knowing the existence of these transactions, being connected transactions with him and/or his family members / relatives, he took no steps to procure the Company's compliance with the Listing Rules.
 - (b) In relation to the Sale of 8 Villas, Mr QZ Huang also failed to declare and/or avoid conflicts of interest, to monitor the purchasers' (including his own) timely payment in accordance with the terms of the Villas Contracts, to act honestly and in good faith in the company's interests and for proper purpose and to disclose fully and fairly his interests in the sale.
 - (c) Mr QZ Huang approved the Group's repayments under, and hence was aware of, the Framework Agreements. Given his knowledge of the loan arrangement, he failed to ensure adequate and effective internal controls were put in place for the Group's external loans, for verifying the amounts of loans and repayments under the Framework Agreements, for ensuring the Group's staff was sufficiently trained and supervised, and for ensuring potential notifiable and connected transactions would be escalated for the board's consideration and approval.
- (4) Mr LC Huang breached Rule 3.08 and his Undertaking to comply with the Rules to the best of his ability in relation to the Intended Disposal, the Sale of 8 Villas, the Framework Agreements and the Wuxi Sanyang Investment and to use his best endeavours to procure the Company's Rule compliance:
- (a) Mr LC Huang was aware of the Intended Disposal and the Sale of 8 Villas. Knowing the existence of these transactions, being connected transactions with his family members / relatives, he failed to procure the Company's Rule compliance in respect of the Intended Disposal and the Sale of 8 Villas and failed to declare and/or avoid conflicts of interest in the Sale of 8 Villas.
 - (b) Mr LC Huang approved the Group's repayments under, and hence was aware of, the Framework Agreements. He failed to ensure adequate and effective internal controls were put in place for the Group's external loans, for verifying the amounts of loans and repayments under the Framework Agreements, for ensuring the Group's staff was sufficiently trained and supervised, and for ensuring potential notifiable and connected transactions would be escalated for the board's consideration and approval.

- (c) As the approver of the Wuxi Sanyang Investment and the related deposit payment, Mr LC Huang failed to discharge his director's duties in ensuring sufficient due diligence was performed to protect the Company's and its shareholders' interest, in monitoring the performance of the contractual obligations, and the recovery of the deposit, under the strategic cooperation agreement. No evidence was provided to demonstrate that the staff, to which Mr LC Huang delegated his duties, were adequately supervised.
- (5) Mr LS Huang breached Rule 3.08 and his Undertaking to comply with the Rules to the best of his ability in relation to the Intended Disposal and the Sale of 8 Villas and to use his best endeavours to procure the Company's Rule compliance:
- (a) Mr LS Huang was aware of the Intended Disposal and the Sale of 8 Villas. Knowing the existence of these transactions, being connected transactions with his family members / relatives, he failed to procure the Company's compliance with the Listing Rules.
- (b) He also failed to declare and/or avoid conflicts of interest in the Sale of 8 Villas.
- (6) The Relevant Directors breached Rule 3.08 and their Undertakings to comply with the Rules to the best of their ability and to use their best endeavours to ensure the Company had adequate and effective internal controls:
- (a) The evidence shows that the Company's then internal controls were deficient. None of the Relevant Directors demonstrated that they took any active steps in ensuring adequate and effective internal controls were maintained and adequate training and guidance were provided to the Group's staff to ensure the Company's compliance with the Listing Rules. Delegation did not absolve them from their duty to supervise the discharge of the delegated functions, for which they retained ultimate collective and individual responsibility.
- (b) The Relevant Directors failed to ensure the Company's internal control system was adequate and effective to procure the Company's Listing Rule compliance and to protect its own and its shareholders' interests, and they failed to ensure the Company's compliance with the Listing Rules in respect of the Intended Disposal, the Sale of 8 Villas and the Results and Reports.
- (7) Mr Wong's and Mr QZ Huang's failure to discharge their responsibilities under Rule 3.08 and their Undertakings in this case was wilful and/or persistent.

CONCLUSION

The Listing Committee decided to impose the sanctions and direction set out in this Statement of Disciplinary Action.



For the avoidance of doubt, the Exchange confirms that the above sanctions and direction apply only to the Company and the Relevant Directors, and not to any other past or present directors of the Company.

Hong Kong, 27 June 2022