

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)

STATEMENT OF DISCIPLINARY ACTION

Exchange's Disciplinary Action against REXLot Holdings Limited (Delisted, Previous Stock Code: 555) and five Directors

SANCTIONS AND DIRECTIONS

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

CENSURES:

(1) **REXLot Holdings Limited** (Delisted, Previous Stock Code: 555) (**Company**);

IMPOSES A PREJUDICE TO INVESTORS' INTERESTS STATEMENT against:

(2) **Mr Chan Victor How Chung (Mr Chan)**, executive director (**ED**) of the Company at the date of delisting;

CRITICISES:

(3) **Mr Boo Chun Lon (Mr Boo)**, ED of the Company at the date of delisting;

(4) **Mr Yuen Wai Ho (Mr Yuen)**, non-executive director of the Company at the date of delisting (who was formerly an independent non-executive director (**INED**) of the Company);

(5) **Mr Chow Siu Ngor (Mr Chow)**, INED of the Company at the date of delisting;

(6) **Mr Lee Ka Lun (Mr Lee)**, former INED of the Company,

(The directors identified at (2) to (6) above are collectively referred to as the **Relevant Directors**.)

The statement made in respect of Mr Chan above is made in addition to a public censure against him. The Prejudice to Investors' Interests Statement is a statement that, in the Exchange's opinion, had the Company remained listed, the retention of office by him would have been prejudicial to the interests of investors.

AND FURTHER DIRECTS:

Each of Mr Boo, Mr Chow, Mr Lee and Mr Yuen to attend 18 hours of training on regulatory and legal topics including Listing Rule compliance.

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HEARINGS

On 31 May 2022, the Listing Committee conducted a hearing into the conduct of the Company and the Relevant Directors in relation to their obligations under the Exchange Listing Rules and the Undertakings.

On 1 November 2022, the Listing Review Committee conducted a hearing of the review application of the Relevant Directors with respect to the findings of breaches and sanctions imposed by the Listing Committee.

SUMMARY OF FACTS

This case concerns (a) inaccurate information in the Company's financial statements for the years ended 31 December 2013 (**FY2013**) and 31 December 2014 (**FY2014**), (b) non-disclosure of financial assistance provided by the Company, (c) the Company's delay in publishing its financial results, (d) the Company's failure to comply or explain its deviation from a Code Provision, and (e) breach of directors' duties.

PRC Co / Referral Business

In September 2011, the Group indirectly acquired 60 per cent of 澳客之家 (北京) 科技股份有限公司 (Beijing Okooo Technology Co., Ltd.) (**Beijing Okooo**) which held Okooo.com, an online lottery sales platform in the PRC. The remaining 40 per cent of Beijing Okooo was held by individuals who were the founders of Okooo.com. The Company did not appoint any directors to the board of Beijing Okooo after the acquisition.

Subsequently, in September 2013, Beijing Okooo and People.cn, Co. Ltd (**People.cn**) established a joint venture (**PRC Co**). The Company and the management of Beijing Okooo collectively had the right to nominate two directors and the general manager of the PRC Co, but the Company decided to allow the management of Beijing Okooo to make the appointments, leaving it with no direct representation in the PRC Co. People.cn nominated three directors and the chairman of the PRC Co.

The Group commenced a referral business for internet lottery sales (**Referral Business**) operated through a wholly-owned subsidiary of Beijing Okooo (**Web Subsidiary**), which entered into sales cooperation agreements with web lottery sales platforms (**WLSPs**) on 31 March 2014. Pursuant to these agreements, the Web Subsidiary would (a) receive referral and service fees for the referral of customers to the WLSPs, (b) pay ticket service fees to the WLSPs, and (c) advance funds to the WLSPs as working capital. As at 31 December 2014, the Web Subsidiary had advanced RMB413.6 million to the WLSPs, of which RMB244.4 million had been repaid as at 31 December 2015.

The Company was not involved in the operations of the Referral Business, and relied on monthly statements provided by the WLSPs to calculate the amount of referral and service fees payable to the Web Subsidiary.

Due to changes in PRC regulation for internet lottery, the Referral Business was suspended and the Company decided not to proceed with its plan to make further investments in Beijing Okooo. This was not well received by the management of Beijing Okooo and caused the management of Beijing Okooo and the general manager of PRC Co to withdraw their support, which materially affected the Company's ability and power to control and direct the operations of the PRC Co.

The accounting treatment of the PRC Co and the Referral Business in the Company's financial statements for FY2013 and FY2014 did not comply with the applicable accounting standards. As a result, there was inaccurate disclosure in the Company's financial statements for FY2013 and FY2014.

Earnest Money

According to the Company, the Group and Mr Lu Chaogang (**Mr Lu**), a business partner of the Group, were exploring an opportunity to jointly acquire an online platform through which users could use their loyalty points to redeem lottery tickets. Potential investors were required to deposit RMB210 million as earnest money in return for exclusivity and to carry out due diligence on the target company.

Mr Lu allegedly proposed that the Company pay his share of the earnest money on his behalf (**Earnest Money**), and that he would repay the Earnest Money to the Company after his fixed deposits of approximately US\$33 million matured. Mr Chan, without informing and/or obtaining approval from the board of the directors of the Company (**Board**), agreed to pay the Earnest Money for Mr Lu. After the payment of the Earnest Money for Mr Lu, a subsidiary of the Company (**Best Vanguard**) and Mr Lu entered into a nominee agreement, pursuant to which Mr Lu confirmed that the funds in the account belonged to Best Vanguard.

The Company's payment of the Earnest Money on behalf of Mr Lu constituted financial assistance and a major transaction, which was subject to the announcement, circular and shareholders' approval requirements under Chapter 14 of the Listing Rules, but the Company failed to comply with these requirements.

Mr Lu later informed the Company that he was unable to repay the Earnest Money as the ban on internet lottery in the PRC made the repayment unlawful. According to the Company, other than negotiating the repayment of the Earnest Money with Mr Lu, no further substantive steps were taken to recover the Earnest Money. The recovery process of the Earnest Money had been stalled since the winding-up order made against the Company.

Deposits

The Group paid deposits for potential acquisitions and joint venture projects in 2014 and 2018 (**Deposits**), which, according to the Company, were refundable. Mr Chan procured the payment of these Deposits, which were ratified, confirmed and approved by the Board within the same financial year when the payments were made. Due to changes in PRC legislation for internet lottery, the Group decided not to proceed with these acquisitions and projects, and sought refunds from the counterparties. As at 30 June 2018, the outstanding balance of the Deposits amounted to approximately HK\$1.7 billion.

The Company provided certain written confirmations from the counterparties of the Deposits (**Confirmations**) as supporting evidence of the Company's ability to enforce repayment of the Deposits. With the exception of one Deposit which had a written agreement, the Relevant Directors relied solely on the Confirmations to ensure recoverability of the Deposits in the event the Company decided not to proceed with the acquisitions and projects. All (except two) Confirmations were dated after the payment of the Deposits

According to the Company, the counterparties did not refund the Deposits due to the new regulation in the PRC which rendered internet lottery unlawful. Apart from instructing agents, the Company did not take further substantive steps to recover the Deposits. The recovery process of the Deposits had been stalled since the winding-up order made against the Company.

Delayed Financial Reporting

The Company failed to publish its annual results and reports for the year ended 31 December 2018 and four subsequent sets of results and reports within the timelines stipulated by the Listing Rules (**Outstanding Results and Reports**).

According to the Company, the delay in publication of the Outstanding Results and Reports was due to, among other things, (a) additional time required to comply with new accounting standards HKFRS 9 and 15, (b) making accounting adjustments to its financial statements for the year ended 31 December 2018, and (c) other factors including COVID-19 and a winding-up petition / order against the Company.

Code Provision A.4.2

Mr Chan's directorship had not been subject to retirement by rotation since 2016, which is a deviation from Code Provision A.4.2 of the Corporate Governance Code (**CG Code**). The Company did not explain in its annual or interim reports why it deviated from such requirement.

LISTING RULE REQUIREMENTS*Company*

Rule 2.13(2) provides that the information contained in an announcement or other document by an issuer must be accurate and complete in all material respects and not misleading.

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

Rules 14.34, 14.38A and 14.40 require an issuer to announce, issue a circular and obtain shareholders' approval for major transactions. A "*transaction*" is defined under 14.04(1)(e) to include, among others, providing financial assistance by an issuer.

Code provision A.4.2 of the CG Code provides that every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years.

Rule 13.89(3) provides that where an issuer deviates from the code provisions of the CG Code, it must give considered reasons in annual and/or interim reports.

Directors

Under Rules 3.08, 3.16 and 13.04, the board of directors of an issuer is collectively responsible for the issuer's management and operations, and the directors are collectively and individually responsible for its compliance with the Listing Rules.

Rule 3.08 provides that the Exchange expects 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 a duty 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.

Directors of listed issuers are required to provide to the Exchange a Declaration and Undertaking with regards to Directors in the form of Appendix 5B to the Listing Rules (**Undertaking**), under which each director, among other things, undertakes that he shall (i) comply to best of his ability with the Listing Rules, and (ii) use his best endeavours to procure the Company's compliance with the Listing Rules.

FINDINGS OF BREACH

The Exchange concluded as follows:

- (1) The Company breached:
 - (a) Rule 2.13(2) in respect of its incorrect accounting treatment of the PRC Co and the Referral Business in its financial statements for FY2013 and FY2014;
 - (b) Rules 14.34, 14.38A, 14.40 and 14.41 in respect of the Earnest Money;
 - (c) Rules 13.46(2), 13.48(1), 13.49(1) and 13.49(6) in respect of the Outstanding Results and Reports; and
 - (d) Rule 13.89(3) for its failure to comply or explain its deviation from Code Provision A.4.2.
- (2) Each of the Relevant Directors breached Rule 3.08(f) and his Undertakings to comply with the Listing Rules to the best of his ability and to use his best endeavours to ensure that the Company had adequate and effective internal controls and to procure the Company's compliance with the Listing Rules:
 - (a) The Relevant Directors failed to adequately safeguard the Company's investment in the PRC Co. The controls in respect of Beijing Okooo and the PRC Co were inadequate and ineffective to ensure that the Company's assets invested in those entities were properly safeguarded. The Company's ability to control Beijing Okooo and the PRC Co hinged upon its future plans to invest in those entities and reliance on the purported mutual understanding of cooperation between the Company and Beijing Okooo's management, although regulation over the online lottery industry in the PRC was still developing. The Company's decision not to place any direct representatives in Beijing Okooo and the PRC Co contributed to its loss of control over these entities after its relationship with the management of Beijing Okooo had deteriorated.

The Relevant Directors did not put in place (i) any arrangement between the Company and Beijing Okooo to ensure its cooperation and in turn the Company's power to control the PRC Co, apart from the VIE structure which was eventually shown to be inadequate and/or ineffective in ensuring the Company's ability and power to control the PRC Co; and (ii) mechanisms under which the Company could remove Beijing Okooo's representatives appointed as directors on the board, and/or the general manager, of the PRC Co, in the event it no longer had Beijing Okooo's cooperation.

- (b) The relevant Deposits were paid solely based on the purported mutual understanding of the parties that they would be refunded to the Company in the event the Company decided not to proceed with the acquisitions / projects. As a result of the lack of safeguards in place to ensure the recoverability of the Deposits, the Company had issues with recovering the Deposits, resulting in significant losses.

Mr Chan arranged the payments for the Deposits for potential acquisitions / projects without (i) ensuring that written terms were agreed in relation to the rights and obligations of the parties, including when and how the Deposits were to be refunded, before or at the time of the payments; (ii) considering the placement of the funds in an escrow account to protect the Company's interests and to ensure timely refund of the Deposits; and (iii) conducting credit checks on the counterparties.

The other Relevant Directors ratified and approved the Deposits when they approved the Company's annual results for the year ended 31 December 2014 and 31 December 2018 respectively without requesting information about safeguards to protect the Company's interests or due diligence that had been conducted. They solely relied on the Confirmations, some of which only came into existence after the relevant Deposits had been made or simply stated that the relevant Deposits were refundable without any repayment date. Even though the Company had previously decided not to proceed with the acquisitions / projects due to policy changes and there had been issues in recovering the Deposits paid in 2014, the Relevant Directors failed to take any steps other than the Confirmations to ensure the recoverability of the Deposits paid in 2018. No substantive steps were taken, other than instructing agents, to recover the Deposits.

- (c) The Company's delay in publishing the Outstanding Results and Report was caused by, among other things, the lack of proactivity and diligence on the part of the Relevant Directors in (i) preparing the Company for compliance with HKFRS 9 and 15, which were issued in September 2014, and (ii) ensuring that the issues raised by its auditors during the FY2018 audit were resolved in a timely manner. Although the Company's auditors had reminded the Company that HKFRS 9 and 15 would become effective on 1 January 2018 in the audit plans for FY2015, FY2016 and FY2017, it was not until June/July 2018 that substantive steps were taken to prepare for compliance with HKFRS 9 and 15, and there were lengthy periods during which the Company did not respond to its auditors for its FY2018 audit. The Relevant Directors (apart from Mr Lee who had resigned on 29 June 2018) failed to take adequate steps to plan for the timely implementation of these accounting standards (including the delay in engaging a professional adviser), contributing to the Company's failure to (i) collate the relevant information required for the audit for FY2018 and (ii) publish the Outstanding Results and Reports within the prescribed deadlines.

- (3) In addition to the matters set out in paragraph (2) above, Mr Chan's breaches of Rule 3.08(f) and his Undertaking also include the following matters:
- (a) The Company did not have any direct representation running the operations of the Referral Business. Mr Chan was responsible for overseeing the Referral Business on behalf of the Company. He did not (i) bring the matter about the advances to the WLSPs to the Board for discussion, (ii) implement adequate internal controls for verifying the accuracy of the financial information provided by the WLSPs; or (iii) put in place adequate measures to ensure that the funds advanced could be safeguarded and recovered by, for example, having written agreements setting out each party's rights and obligations.
 - (b) Mr Chan was the only director involved in the arrangement relating to the Earnest Money. He did not (i) submit the proposed provision of the Earnest Money to the Board for approval, (ii) adequately protect the Company's interests by putting in place proper arrangements to safeguard the Company's ability to enforce its right over Mr Lu's assets in the event of his default in repayment of the Earnest Money or (iii) procure the Company's compliance with Chapter 14 of the Listing Rules as he failed to recognise the Listing Rule implications of the Earnest Money. No substantive steps were taken, other than negotiating with Mr Lu, to recover the Earnest Money.
- (4) By reason of Mr Chan's conduct and Rule breaches, he persistently failed to discharge his responsibilities under the Listing Rules. In particular, he was the sole director (a) having knowledge of and involvement in the provision of the Earnest Money, (b) responsible for the Referral Business, and (c) involved in the initial approval and payment of the Deposits. His conduct contributed to the Company's loss of control over the PRC Co and the Referral Business, and the inability to recover the Earnest Money and the Deposits. As a result, the Company suffered significant losses, and the interests of the Company and its shareholders have been seriously jeopardised.

CONCLUSION

The Exchange decided to impose the sanctions and directions set out in this Statement of Disciplinary Action.

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

Hong Kong, 5 December 2022