

STATEMENT OF DISCIPLINARY ACTION

Exchange's Disciplinary Action against Four Former Directors of Enviro Energy International Holdings Ltd (Stock Code: 1102)

SANCTIONS

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

IMPOSES:

A DIRECTOR UNSUITABILITY STATEMENT and **CENSURE** against:

- (1) **Mr Li Sen**, former chairman and executive director (**ED**) of the Company (**Mr Li**);
- (2) **Mr Zhong Jin Hua**, former ED of the Company (**Mr Zhong JH**);
- (3) **Mr Li Jin Yuan**, former independent non-executive director (**INED**) of the Company (**Mr Li JY**);

A PREJUDICE TO INVESTORS' INTERESTS STATEMENT and **CENSURE** against:

- (4) **Mr Zhou Xue Sheng**, former ED and chief executive officer (**CEO**) of the Company (**Mr Zhou**).

(The directors identified in (1) to (4) above are collectively referred to as the **Relevant Directors**.)

The Director Unsuitability Statement is a statement that, in the Exchange's opinion, Mr Li, Mr Zhong JH and Mr Li JY are unsuitable to occupy a position as director or within senior management of the Company or any of its subsidiaries.

The Prejudice to Investors' Interests Statement is a statement that, in the Exchange's opinion, had Mr Zhou remained on the board of directors (**Board**) of the Company, the retention of office by him would have been prejudicial to the interests of investors.

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SUMMARY OF FACTS

Issue 1: Internal controls deficiencies

On 1 and 3 May 2018, the Company's subsidiary entered into a loan agreement and a supplemental loan agreement (**Loan Agreements**), involving Mr Li and Mr Zhou, which constituted major and/or connected transactions of the Company under Chapters 14 and 14A of the Listing Rules.

The Loan Agreements were not discovered by the Board until around August and September 2018; and independent shareholders' approval was not obtained until July 2019.

In its circular dated 24 June 2019, the Company admitted its breaches of Rules 14.34, 14.38A, 14.40, 14.41, 14A.35 and 14A.36 in relation to the Loan Agreements.

The Company's internal control report dated 7 August 2019 identified internal controls deficiencies at the material time. The report found, amongst others, there was a lack of (1) written guidance on the type of payments by the Company that require the Board's approval, (2) a written cash and treasury management policy on the authorisation and approval of loans, and (3) a list of connected parties so as to enable the Company's compliance with Chapter 14A requirements.

Issue 2: Unauthorised Guarantee and Deed of Assignment

On 3 August 2018, Mr Li and his wife provided a personal guarantee for a debt in favour of Mr Zhou (**Debt**). The Debt was a loan of approximately RMB18 million given by Mr Zhou to an entity owned by Mr Li (**Borrower**).

On 23 December 2018, two of the Company's subsidiaries (**Subsidiaries**) entered into a guarantee (**Guarantee**), also in favour of Mr Zhou, for the Debt. The Guarantee was a connected transaction of the Company and was executed by the Subsidiaries' legal representatives without the approval of any directors of the Company and/or the Subsidiaries.

On 13 March 2019, the Subsidiaries (via their respective legal representatives), Mr Zhou and an independent third party entered into a deed of assignment (**DOA**), under which Mr Zhou assigned his rights under the Debt to the independent third party. Under the DOA, if the Borrower failed to repay the Debt, the Subsidiaries as the guarantors would assume responsibility for the repayment. The Subsidiaries entered into the DOA without the approval of any directors of the Company and/or the Subsidiaries.

The Borrower defaulted on the Debt and the independent third party commenced arbitration proceedings in the People's Republic of China (**PRC**) against the Subsidiaries under the DOA. On 7 August 2019, an arbitral award was given against the Subsidiaries for approximately RMB18.5 million, resulting in the Subsidiaries' bank accounts being frozen up to the award amount for 12 months from October 2019.

The arbitral award was later withdrawn by the independent third party pursuant to a settlement agreement between him and Mr Zhou in July 2020, whereby Mr Zhou agreed to assume all liabilities of the Subsidiaries in relation to the award.

The available information and circumstances suggest Mr Li's and Mr Zhou's intimate involvement in the entering into of the Guarantee. The Guarantee was clearly not in the interest of Company and/or the Subsidiaries.

Issue 3: Mr Li's criminal prosecution

On 30 October 2019, the Shenzhen Futian People's Procuratorate issued a press release stating that Mr Li was being prosecuted by them in relation to the suspected misappropriation of public funds in the PRC (**Prosecution**).

Mr Li did not inform the Company of his Prosecution, so the Company could not and did not announce this information as required under Rule 13.51. Information about Mr Li's Prosecution was discovered by the Company's legal advisor on 22 June 2020. The Company announced the information on 26 June 2020.

Issue 4: Irregular Board activities

In June 2020, there were two irregular Board activities that were led by Mr Li and/or blindly supported by Mr Zhong JH and Mr Li JY.

First Board activity – exercise of casting vote despite a conflict of interest:

- (1) On 10 June 2020, Mr Li's shareholding in the Company (held by an entity wholly-owned by Mr Li), was transferred to his creditor by way of the enforcement of a share charge (**Charge**). As a result, the creditor became the largest shareholder of the Company.
- (2) The Board convened a meeting on 21 June 2020 to discuss the implications of the enforcement of the Charge and whether the information in relation to the enforcement of the Charge should be disclosed to the public. Six directors attended the meeting. Three directors voted for disclosure while the remaining three: Mr Li, Mr Zhong JH and Mr Li JY, voted against. Mr Li then exercised his casting vote at the meeting as the chairman of the Board and resolved not to publish any announcement.
- (3) Despite Mr Li's conflict of interest in the matter, he did not abstain from voting and instead used his position as chairman to exercise his casting vote in order to prevent disclosure of the enforcement of the Charge.

Second Board activity – Unauthorised Announcements:

- (1) On 24 June 2020 at around 4:30 pm, the Board resolved to suspend Mr Li's duties as a director of the Company. At around 6:30 pm and 7:00 pm on the same day, Mr Li caused

the Company to publish two announcements (**Unauthorised Announcements**), which stated that, amongst others, (a) the shares in the entity wholly-owned by Mr Li (**Entity**) were transferred illegally and maliciously without the Entity's consent, and (b) the AGM scheduled for 26 June 2020 would be postponed.

- (2) The Unauthorised Announcements were not authorised by the Board. The Company had to take immediate remedial action to correct the misinformation in the market. On 26 June 2020, the Company applied for a trading halt and published an announcement to confirm that the AGM would be held as scheduled. The announcement also contained information regarding the suspension of Mr Li's duties as a director. Mr Li's cessation as an ED and the chairman of the Board took effect from 26 June 2020.
- (3) On 13 July 2020, the Company published a further announcement to clarify the confusion caused by the Unauthorised Announcements. The Company's shares resumed trading on 14 July 2020.

RULE REQUIREMENTS

Rules 3.08, 3.16 and 13.04

Under Rules 3.16 and 13.04, the board is collectively responsible for the Company's management and operations, and the directors are collectively and individually responsible for the Company's 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 the duty to:

- (1) act honestly and in good faith in the interests of the company as a whole (Rule 3.08(a));
- (2) act for proper purpose (Rule 3.08(b));
- (3) avoid actual and potential conflicts of interest and duty (Rule 3.08(d));
- (4) disclose fully and fairly his interests in contracts with the issuer (Rule 3.08(e)); and
- (5) apply such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience and holding his office within the issuer (Rule 3.08(f)).

Corporate Governance Code (CG Code)

Under the then CG Code Provisions (C.2.1 to C.2.3), the board should oversee the issuer's risk management and internal control systems on an ongoing basis and ensure that an annual review of the effectiveness of these systems is conducted.

Director's Undertaking

Pursuant to the Declaration and Undertaking with regard to Directors in the form set out in the then Appendix 5B of the Listing Rules (**Director's Undertaking**), each director is required to, amongst others:

- (1) comply to the best of his ability with the Listing Rules (**Best Ability Undertaking**);
- (2) use his best endeavours to procure the Company's compliance with the Listing Rules (**Best Endeavours Undertaking**);
- (3) cooperate in any investigation conducted by the Exchange which includes promptly and openly answering any questions, promptly providing any documents and attending any meeting or hearing requested of him (**Undertaking to Cooperate**); and
- (4) inform the Exchange of his updated contact details within 3 years from the date on which he ceases to be a director of the issuer. Any correspondence and/or service of documents by the Exchange on his last known address will be deemed to have been validly served on him.

Rules 13.44 and 13.51C

Rule 13.44 provides that a director of the issuer shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his close associates has a material interest. In addition, he shall not be counted in the quorum present at the meeting.

Rule 13.51(2)(v) provides that an issuer must publish an announcement as soon as practicable where there are any changes in its directorate including where the director is a defendant in any current criminal proceeding involving an offence which may be material to an evaluation of his character or integrity to be a director of the issuer, and full particulars of such proceeding.

Rule 13.51C provides that directors, supervisors and chief executive of an issuer must procure and/or assist the issuer to comply with Rules 13.51(2)(v) and 13.51B including, but not limited to, by immediately informing the issuer of any change in the information referred to in Rule 13.51(2)(v) which information concerns the director, supervisor or chief executive. In procuring and/or assisting the issuer in the publication of the information, the director, supervisors and chief executive concerned must accept responsibility of the accuracy of the information.

LISTING COMMITTEE'S FINDINGS OF BREACH

- (1) Mr Li breached his director's duties. He failed to avoid and/or manage conflicts of interest and exercise due skill, care and diligence in relation to the matters of the Guarantee and in the conduct of a meeting concerning the disclosure of the enforcement of the Charge.

Given his capacity as the substantial shareholder of the Company at the relevant time and the owner of the Borrower, Mr Li had a clear conflict of interest in the Guarantee and the DOA. He failed to inform or declare his interest in the Guarantee to the Board and thereby deprived the Company of the opportunity to consider the Guarantee or any Listing Rule implications. He placed his own interest before that of the Group, exposed the Group to significant financial risk and, by virtue of the Borrower's default on the Debt, the Subsidiaries became the subject of the arbitration which led to the Company's assets being frozen.

At the meeting on 21 June 2020, despite his conflict of interest in the disclosure of the enforcement of the Charge, he did not abstain from voting. Instead, he took advantage of his position as the chairman of the Board and gave the casting vote against the resolution to disclose information about the enforcement of the Charge.

He failed to act for proper purpose and in the interests of the Company as a whole, and abused his power as a director to deliberately cause the Company to issue the Unauthorised Announcements. The matters disclosed in the Unauthorised Announcements were not authorised by the Board and disseminated misleading information to the public investors.

In addition, Mr Li failed to act for proper purpose as he did not notify the Company about his Prosecution. Information about his Prosecution was highly relevant to the interest of the public and investors in order to enable them to be properly and timely informed of material matters pertaining to the Company. Information about the Prosecution should have been promptly announced.

Mr Li also failed to cooperate with the Listing Division's investigation.

Mr Li therefore breached his director's duties under Rules 3.08, 13.44 and 13.51C. By reason of his breach of the above Rules and his failure to procure the Company's compliance with Rule 13.51(2)(v), Mr Li breached his Best Ability Undertaking and Best Endeavours Undertaking. He also breached his Undertaking to Cooperate. Mr Li's conduct demonstrated a serious and repeated failure to discharge his responsibilities under the Listing Rules and his Director's Undertaking.

- (2) Mr Zhou failed to avoid and/or manage conflicts of interest. Mr Zhou was an ED and the CEO of the Company at the time of the entering into of the Guarantee and DOA. He was also the lender of the Debt and thus he was in a clear conflict of interest position. He was intimately involved in the Subsidiaries entering into the Guarantee and the DOA, which were for his personal benefit and not in the interest of the Company or the Subsidiaries. The Guarantee was a connected transaction of the Company. He did not take any steps to manage the conflict in this situation and failed to inform the Board about the Guarantee and/or the DOA thereby depriving the Company of the opportunity to consider the Guarantee or any Listing Rule implications.

Mr Zhou also failed to disclose fully and fairly his interests in the unauthorised transactions, and apply such degree of skill, care and diligence as may reasonably be expected as a director. He therefore breached Rule 3.08. He also breached his Best Ability Undertaking and Best Endeavours Undertaking by reason of his breach of Rule 3.08. Mr Zhou's conduct demonstrated a serious failure to discharge his responsibilities under the Listing Rules and his Director's Undertaking, and had he remained on the Board the retention of office by him would have been prejudicial to the interests of investors.

- (3) Mr Zhong JH and Mr Li JY also failed to avoid and/or manage conflicts of interest. They were aware of Mr Li's conflict of interest in relation to the enforcement of the Charge. However, when the Board needed to vote on whether to disclose the enforcement of the Charge, they did nothing to deal with Mr Li's conflict of interest and blindly followed Mr Li's lead to vote for non-disclosure.

As with Mr Li, Mr Zhong JH and Mr Li JY also failed to cooperate in the Listing Division's investigation.

Mr Zhong JH and Mr Li JY failed to deal with Mr Li's conflicts of interest and apply such degree of skill, care and diligence as may be expected as a director and therefore breached their director's duties under Rule 3.08. They breached their Best Ability Undertaking by reason of their breach of Rule 3.08. They also breached their Undertakings to Cooperate. Their conduct demonstrated a serious and repeated failure to discharge their responsibilities under the Listing Rules and the Director's Undertakings.

- (4) Mr Li and Mr Zhou (who were on the Board when the Loan Agreements were entered into) failed to ensure the Company had in place adequate internal control systems for procuring the Company's compliance with the relevant requirements of Chapters 14 and 14A and the CG Code Provisions. Mr Li and Mr Zhou therefore breached their Best Endeavours Undertakings.

CONCLUSION

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

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

Hong Kong, 17 June 2024