
APPLICATIONS FOR VARIOUS EXTENSIONS OF TIME IN RELATION TO FINANCIAL STATEMENTS AND HOLDING OF ANNUAL GENERAL MEETINGS

1. INTRODUCTION

- 1.1. Swiber Holdings Limited (Judicial Managers Appointed) (the “**Company**” and together with its subsidiaries, the “**Group**”) refers to:-
- (a) its announcement dated 26 July 2019 in relation to an application to the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”) for an extension of time to prepare and submit a proposal to the SGX-ST with a view to resuming trading in the Company's securities within 12 months of the date of suspension of trading of its securities (the “**Resumption Proposal**”); and
 - (b) its announcement dated 29 October 2018 in relation to its application to the SGX-ST for an extension of time to comply with relevant provisions under the Listing Manual of the SGX-ST (the “**Listing Manual**”) in relation to the announcement of various financial results, holding of annual general meetings and filling of the vacancies in its Audit Committee; and
 - (c) its announcement dated 30 April 2020 relating to the grant by the High Court of Singapore of an extension of the judicial management period for the Company and Swiber Offshore Construction Pte Ltd (“**SOC**”) to 30 June 2020.
- 1.2. The Company had on 11 January 2019 submitted a further application to the SGX-ST for a further extension of time in relation to the announcement of various financial results, holding of annual general meetings and filling of the vacancies in its Audit Committee.
- 1.3. The Company had on 18 January 2019 also submitted an application to the Accounting and Corporate Regulatory Authority of Singapore (“**ACRA**”) for extensions of time to comply with relevant provisions under the Companies Act (Chapter 50) of Singapore (the “**Companies Act**”) in relation to the holding of its annual general meetings and filing of its annual returns with ACRA.

2. CURRENT APPLICATIONS TO THE SGX-ST AND ACRA FOR EXTENSIONS OF TIME

- 2.1. Further to the Company's previous applications to the SGX-ST and ACRA, which are currently still pending, the Company has on 30 April 2020 made:
- (a) a further application to the SGX-ST (the “**Current SGX Application**”) for extensions of time to comply with:-
 - (i) Rule 1304(1) of the Listing Manual in relation to the submission of the Resumption Proposal;
 - (ii) Rules 705(1) and (2) of the Listing Manual in relation to the announcement of financial statements and Rule 707(1) of the Listing Manual in relation to the holding of its annual general meetings; and
 - (iii) Rule 704(8) of the Listing Manual in relation to filling the vacancies in the Audit Committee,

further details of which are set out in paragraphs 3 to 5 below; and

- (b) a further application to ACRA (the “**Current ACRA Application**”) for extensions of time to comply with:-
- (i) Section 175 of the Companies Act in relation to the holding of its annual general meetings;
 - (ii) Section 201 of the Companies Act (as was in force immediately prior to 31 August 2018) in relation to the holding of the 2018 AGM (as defined below) and the laying of the FY2017 Financial Statements (as defined below) at the 2018 AGM; and
 - (iii) Section 197 of the Companies Act in relation to the filing of its annual returns with ACRA,

further details of which are set out in paragraph 6 below.

3. APPLICATION TO THE SGX-ST FOR EXTENSION OF TIME TO COMPLY WITH RULE 1304(1) OF THE LISTING MANUAL

- 3.1. The Company has in its Current SGX Application sought for the SGX-ST to grant an extension of time of up to 31 December 2020 to prepare and submit the Resumption Proposal to the SGX-ST (the “**Resumption Proposal Extension**”).
- 3.2. The Company’s reasons for seeking the Resumption Proposal Extension are as follows:-
- (a) the preparation of the Resumption Proposal is dependent on the restructuring of the Company and SOC, including the potential investment and/or injection of new business or assets into the Group;
 - (b) the Company had on 30 March 2019 announced the execution of an investment agreement dated 29 March 2019 (“**Seaspan Investment Agreement**”) between the Company, its wholly-owned subsidiary, Equatoriale Energy Pte. Ltd. and Seaspan Corporation (“**Seaspan**”) in relation to the proposed investment of US\$200 million by Seaspan in the Group (the “**Seaspan Investment**”). As announced by the Company on 7 May 2019 and 29 May 2019, the Company had on 29 May 2019 also held the first meeting of creditors of the Company and SOC, where the Judicial Managers’ statement of proposals for the Company and SOC, which included the implementation of a restructuring proposal in relation to the Seaspan Investment, was approved by a majority in number and value of the creditors of the Company and SOC present and voting at such meeting. Since then, the Company focused its efforts on satisfying the relevant conditions precedent under the Seaspan Investment Agreement but as certain conditions precedent under the Seaspan Investment Agreement remain unfulfilled by the long-stop date of 31 December 2019, the Company subsequently announced on 3 January 2020 that the Company and Seaspan agreed that the Seaspan Investment Agreement has been terminated with effect from 1 January 2020;
 - (c) following the termination of the Seaspan Investment Agreement with effect from 1 January 2020, the Company and the Judicial Managers remained open to considering other options for the restructuring of the Company and SOC. Subsequently on 6 April 2020, the Company announced that it had on 5 April 2020 received a preliminary and non-binding expression of interest (the “**EOI**”) from a third party (the “**Potential Investor**”) in relation to a potential investment in the Group, subject to satisfactory due diligence, the receipt of all necessary approvals and the signing of definitive transaction agreements on terms satisfactory to the parties (the “**Definitive Agreements**”) (the “**Potential Investment**”), and that the Company was currently reviewing and evaluating the proposal in the EOI. On 15 April 2020, the Company announced further that it was in discussions with the Potential

Swiber Holdings Limited
(Judicial Managers Appointed)
Co. Reg. No. 200414721N

12 International Business Park, Swiber@IBP #01-05, Singapore 609920
Tel: +65 6505 0800 Fax: +65 6505 0802
www.swiber.com

Investor, an oil and gas conglomerate based in the Middle East, in relation to the EOI with a view to agreeing on the broad terms of the Potential Investment to be set out in a term sheet, which (if such term sheet is signed) will form the general basis for the negotiations of the Definitive Agreements. As at the date of this announcement, the parties are still in discussions in relation to the broad terms of the Potential Investment and no term sheet has been entered into yet. The Potential Investor has commenced its due diligence process for the Potential Investment, which is expected to take between three to four weeks;

- (d) the present COVID-19 pandemic has also affected many regions and countries worldwide, including the Middle East and Singapore. While the Company remains committed in its endeavours to secure a term sheet with the Potential Investor based on mutually agreed terms, the pace of negotiations and discussions has unfortunately slowed down as a result of the pandemic and the various measures taken in response to it;
- (e) in view that the Company is currently only at the preliminary stage of discussions in relation to the Potential Investment and as such matters are still ongoing, the Company is currently not in a position to formulate and submit the Resumption Proposal. The Company believes that it will be in a better position to assess the impact of any potential investment and the other transactions to be undertaken in connection with such potential investment, on the proposed restructuring plans for the Company for the purposes of the Resumption Proposal, only after there is more certainty as to whether a potential investment and such other transactions will proceed and if so, the terms thereof; and
- (f) further, the judicial management of the Company and SOC is currently still ongoing. In view of the above, the Company is of the view that the extension of time for the submission of the Resumption Proposal of until 31 December 2020 that it is requesting for, would be a more realistic timeline.

4. APPLICATION TO THE SGX-ST FOR EXTENSION OF TIME TO COMPLY WITH RULES 705(1), 705(2) AND 707(1) OF THE LISTING MANUAL

4.1. The Company has in its Current SGX Application sought for the SGX-ST to grant the following extensions of time to comply with Rules 705(1), 705(2) and 707(1):-

- (a) in respect of Rule 705(1) and Rule 705(2) of the Listing Manual, an extension of time of up to nine (9) months after the date of expiry of the judicial management period of the Company (as may be extended by the High Court from time to time) (the "**JMO Expiry Date**") to comply with Rule 705(1) and Rule 705(2) on an ongoing basis.

This would encompass an extension of time of up to nine (9) months after the JMO Expiry Date for the Company to announce:-

- (i) its second quarter results for the financial period ended 30 June 2016, third quarter results for the financial period ended 30 September 2016, financial statements for the full financial year ended 31 December 2016 ("**FY2016**"), first quarter results for the financial period ended 31 March 2017, second quarter results for the financial period ended 30 June 2017, third quarter results for the financial period ended 30 September 2017, financial statements for the full financial year ended 31 December 2017 ("**FY2017**") (the "**FY2017 Financial Statements**"), first quarter results for the financial period ended 31 March 2018, second quarter results for the financial period ended 30 June 2018, third quarter results for the financial period ended 30 September 2018, financial statements for the full financial year ended 31 December 2018 ("**FY2018**"), first quarter results for the financial period ended 31 March 2019, second quarter results for the financial period ended 30

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12 International Business Park, Swiber@IBP #01-05, Singapore 609920
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www.swiber.com

June 2019, third quarter results for the financial period ended 30 September 2019, financial statements for the full financial year ended 31 December 2019 ("FY2019") and financial statements for the full financial year ending 31 December 2020 ("FY2020") (the "FY2020 Results") (collectively, the "Relevant Financial Results"); and

- (ii) the financial statements for such other subsequent full financial years which are required to be announced within the period ending nine (9) months after the JMO Expiry Date, as may be required under Rule 705(1); and
- (b) in respect of Rule 707(1) of the Listing Manual and in line with the extension mentioned in paragraph 4.1(a) above, a similar extension of time of up to ten (10) months after the JMO Expiry Date to comply with Rule 707(1) on an ongoing basis.

This would encompass an extension of time of up to ten (10) months after the JMO Expiry Date for the Company to hold:-

- (i) its annual general meetings for FY2016 (the "2017 AGM"), FY2017 (the "2018 AGM"), FY2018 (the "2019 AGM"), FY2019 (the "2020 AGM") and FY2020 (the "2021 AGM") (collectively, the "Relevant AGMs"); and
- (ii) the annual general meetings for such other subsequent financial years which are required to be held within the period ending ten (10) months after the JMO Expiry Date, as may be required under Rule 707(1),

(collectively, the "Ongoing Financial Statements and AGM Extensions").

4.2. In the event that the Ongoing Financial Statements and AGM Extensions cannot be granted, the Company has in the alternative sought for the SGX-ST to grant the following extensions of time instead:-

- (a) in respect of Rule 705(1) and Rule 705(2), an extension of time of up to 30 September 2021, for the Company to announce the Relevant Financial Results; and
- (b) in respect of Rule 707(1) and in line with the extension mentioned in paragraph 4.2(a) above, a similar extension of time of up to up to 31 October 2021, for the Company to hold the Relevant AGMs,

(collectively, the "Fixed Financial Statements and AGM Extensions").

4.3. With respect to Rule 705(2), with effect from 7 February 2020 and pursuant to current Rule 705(2B)(a) of the Listing Manual, Rule 705(2) in relation to quarterly reporting is no longer applicable to issuers undergoing judicial management, such as the Company. As such, the quarterly reporting requirements under Rule 705(2) will no longer apply to the Company with respect to its financial statements starting from its first quarter results for the financial period ended 31 March 2020.

4.4. The Company's reasons for seeking the Ongoing Financial Statements and AGM Extensions (or in the alternative, the Fixed Financial Statements and AGM Extensions) are as follows:-

- (a) the Judicial Managers have been engaging with creditors, potential investors and other stakeholders, identifying and safeguarding property and assets, negotiating on ongoing projects, managing disputes and negotiating and formulating proposals for the proposed restructuring of the Group. Accordingly, the resources (in terms of time and manpower) of the Company and the Judicial Managers have been tied up with the judicial management

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process, with a view to achieving the Company's eventual exit from judicial management. Consequently, the Company and the Judicial Managers are not able to divert their resources towards preparing the accounts of the Company or the holding of the Company's annual general meetings;

- (b) in view that the Company and SOC are currently under judicial management, there are practical difficulties and challenges faced by the Judicial Managers (which may otherwise not apply in the case of a company which is a going concern) in ascertaining and finalising the financial information which is relevant for the preparation and updating of the Company's financial statements. Moreover, whether the preparation of the Company's accounts and the audit of such accounts by the auditors are to be conducted on a going concern or break up basis would depend on whether the restructuring exercise in respect of the Company's and SOC's debts is completed, and whether the Company is discharged from judicial management;
- (c) in the event that the Potential Investment proceeds, it is envisaged that the Company will be undergoing further restructuring and reorganisation pursuant to the Potential Investment. In view thereof, the Company believes it would be more logical and meaningful, and less confusing to its shareholders, for the financial results to be announced after a viable Resumption Proposal is put forth and implemented;
- (d) the Company currently still does not have the financial resources and manpower to prepare and update the financial results. Given the financially distressed state of the Company, the Company has limited funds and is still facing severe cash flow issues on a month to month basis. In view of the financial situation of the Company, many of the employees (including the accountants) of the Company had resigned (including the Group Chief Financial Officer who had resigned with effect from 31 July 2017), and the Company has insufficient financial resources to hire new accountants to prepare, update and finalise the financial results referred to in paragraphs 4.1(a) or 4.2(a) or settle the outstanding fees of its external auditors so as to enable them to commence any review and/or audit of such financial results;
- (e) following the exit of the Company from judicial management, given the long period starting from October 2016 for which the Company has been in judicial management, the Company requires time to explore various options to resolve the issues in paragraph (d) above, and would need a relatively longer time period of adjustment to transition from being a company in judicial management to one that is able to operate its normal course of business again. This will include the process of hiring additional manpower to supplement its finance team once it exits from judicial management. The Company has also been in discussions with its auditors, who have indicated that a longer period of time than usual will be required to complete an audit in respect of financial information spanning five financial years from FY2016 to FY2020 (inclusive) all at one go (which will be a massive exercise), as compared to an audit in respect of financial information for just one financial year (which typically takes around three months). Unlike a typical audit exercise, the process is expected to be further complicated by the need to compile, verify and review supporting documents relating to periods falling earlier than the latest completed financial year. As such, the Company in consultation with its auditors also believes that sufficient time should be afforded to the audit process so as to ensure that the audited accounts are prepared properly; and
- (f) the Company also observes that the Singapore Parliament itself has recognized that companies in judicial management will have limited resources, and that during judicial management, it may not be possible or even practicable for the Company to expend further time, resources and costs to prepare financial statements or call annual general meetings. Accordingly, the Insolvency, Restructuring and Dissolution Act 2018, which consolidates

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12 International Business Park, Swiber@IBP #01-05, Singapore 609920
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restructuring and insolvency laws and was passed by Parliament on 1 October 2018 and will come into force on such date that the Minister appoints by notification in the *Gazette*, expressly provides that companies in judicial management are not required to hold annual general meetings, lodge annual returns or lay financial statements at annual general meetings under the Companies Act:

“Suspension of requirements to call annual general meeting and to file annual returns and audited accounts

103. During the period in which a company is in judicial management, the judicial manager, the company and any officer of the company (as the case may be) are not required to comply with sections 175, 197 and 201 of the Companies Act.”

Whilst the provisions above have yet to come into force and notwithstanding that they are only applicable in the context of analogous requirements relating to the laying of financial statements and holding of annual general meetings under the Companies Act and not the Listing Manual, the Company has submitted that the above legislative provision captures precisely why companies in the midst of insolvent restructuring are deserving of an exemption or waiver from the strict requirements of Rules 705(1), 707(2) and 707(1) of the Listing Manual.

In view of the above, the Company is seeking the Ongoing Financial Statements and AGM Extensions as it believes that realistically, the Company would only be in a position to prepare, finalise and announce the relevant financial statements within nine (9) months after the JMO Expiry Date, which is the date by which the Company would reasonably expect to have completed its restructuring and to be discharged from judicial management, and to hold the relevant annual general meetings within one (1) month thereafter.

However, in the event that the SGX-ST is unable to grant the Ongoing Financial Statements and AGM Extension, the Company estimates that, assuming that the Potential Investment proceeds and the restructuring is completed by 31 December 2020 and barring unforeseen circumstances, the financial statements can be announced within nine (9) months thereafter (ie by 30 September 2021) and the relevant annual general meetings held within one (1) month thereafter (ie by 31 October 2021).

5. APPLICATION TO THE SGX-ST FOR EXTENSION OF TIME TO COMPLY WITH RULE 704(8) OF THE LISTING MANUAL IN RELATION TO FILLING THE VACANCIES IN THE AUDIT COMMITTEE

- 5.1 As announced by the Company on 4 April 2017, Mr. Yeo Jeu Nam, who was the lead independent non-executive director of the Company, had resigned with effect from 3 April 2017, and as announced by the Company on 30 October 2017, Mr. Chia Fook Eng, who was an independent non-executive director, had resigned with effect from 30 October 2017 (the "**Resignations**").
- 5.2 Prior to the Resignations, the audit committee of the Company (the "**Audit Committee**") comprised of Mr Yeo Jeu Nam, Mr Chia Fook Eng and Mr Oon Thian Seng. Following the Resignations, the number of members in the Audit Committee has been reduced to one (1) member.
- 5.3 Under Rule 704(8) of the Listing Manual, in the event of any resignation which renders the Audit Committee unable to meet the minimum number (not less than three), the Company should endeavor to fill the vacancies within two months, but in any case not later than three months.
- 5.4 The Company has in its Current SGX Application sought for the SGX-ST to grant the following extensions of time to comply with Rule 704(8):-

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- (a) an extension of time of up to two (2) months after the JMO Expiry Date to comply with **Rule 704(8)** of the Listing Manual (the “**Ongoing Audit Committee Extension**”); or
- (b) in the event that the Ongoing Audit Committee Extension cannot be granted and in the alternative, an extension of time of up to 28 February 2021 to comply with **Rule 704(8)** of the Listing Manual (the “**Fixed Audit Committee Extension**”).

5.5 The Company’s reasons for seeking the Ongoing Audit Committee Extension (or in the alternative, the Fixed Audit Committee Extension) are as follows:-

- (a) since the Resignations, the Company has tried to search for replacement directors to undertake the role of independent directors and audit committee members. However, due to the Company being placed in judicial management, the Company has not been successful in finding replacement directors who are willing to take on such a role. Further, given the financially distressed state of the Company, the Company would not be in a position to pay directors’ fees to such replacement directors. Accordingly, it is practically very difficult for the Company to fill the vacancies in the Audit Committee under the current circumstances. In view of the above, the Company is of the view that it would be in a better position to pursue discussions with and attract potential candidates for such role only upon achieving a successful restructuring of the Company (if applicable) so that there is a reasonable chance for the continued operation of the Company post-restructuring and the Company will then be able to identify potential candidates; and
- (b) as the Company is currently placed under judicial management, the powers of the directors of the Company have been suspended and assumed by the Judicial Managers since the Judicial Managers’ appointment. In addition, given the current situation of the Company where it is not able to prepare, update and finalise its financial results nor enable its external auditors to commence review and/or audit such financial results (as mentioned in paragraphs 4.1(a) or 4.2(a) above), the Company believes that the role of the Audit Committee would be limited during the judicial management period of the Company. In view of the above and having regard to the functions of the Audit Committee as set out under Section 201B of the Companies Act and the Code of Corporate Governance, the Company believes that the Audit Committee Extension would not be prejudicial to the Company.

In view of the above, the Company is seeking the Ongoing Audit Committee Extension as it believes that realistically, the Company would only be in a position to fill the Audit Committee vacancies within two (2) months from the JMO Expiry Date, which is the date by which the Company would reasonably expect to have carried out the restructuring and to be discharged from judicial management.

However, in the event that the SGX-ST is unable to grant the Ongoing Audit Committee Extension, the Company estimates that assuming that the Potential Investment proceeds and the restructuring is completed by 31 December 2020 and barring unforeseen circumstances, the Audit Committee vacancies can be filled within two (2) months thereafter (ie 28 February 2021).

6. APPLICATION TO ACRA

6.1. The Company has in its Current ACRA Application sought for ACRA to grant the following extensions of time:-

- (a) in respect of Section 175 of the Companies Act, an extension of time of up to ten (10) months after the date of expiry of the JMO Expiry Date to comply with Section 175 on an ongoing basis. This would encompass an extension of time of up to ten (10) months after the JMO Expiry Date for the Company to hold the 2018 AGM, 2019 AGM, 2020 AGM,

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2021 AGM, and the annual general meetings for such other subsequent financial years which are required to be held within the period ending ten (10) months after the JMO Expiry Date, as may be required under Section 175;

- (b) in respect of Section 201 of the Companies Act (as was in force immediately prior to 31 August 2018), an extension of time of up to ten (10) months after the JMO Expiry Date to comply with Section 201 (as was in force immediately prior to 31 August 2018), in respect of the holding of the 2018 AGM and the laying of the FY2017 Financial Statements at the 2018 AGM on an ongoing basis; and
- (c) in respect of Section 197 of the Companies Act and in line with the extension mentioned in paragraph 6.1(a) above, a similar extension of time of up to eleven (11) months after the JMO Expiry Date to comply with Section 197 on an ongoing basis. This would encompass an extension of time of up to eleven (11) months after the JMO Expiry Date for the Company to file:-
 - (i) its annual returns in respect of FY2017, FY2018, FY2019 and FY2020 (collectively, the “**Relevant Annual Returns**”); and
 - (ii) the annual returns for such other subsequent financial years which are required to be filed within the period ending eleven (11) months after the JMO Expiry Date, as may be required under Section 197,

(collectively, the “**Ongoing AGM, Financial Statements and Annual Returns Extensions**”).

6.2. In the event that the Ongoing AGM, Financial Statements and Annual Returns Extensions cannot be granted, the Company has in the alternative sought the following extensions of time instead:-

- (a) in respect of Section 175 of the Companies Act, an extension of time of up to 31 October 2021, for the Company to hold the 2018 AGM, 2019 AGM, 2020 AGM and 2021 AGM;
- (b) in respect of Section 201 of the Companies Act (as was in force immediately prior to 31 August 2018), an extension of time of up to 31 October 2021, for the Company to hold the 2018 AGM and to lay the FY2017 Financial Statements at the 2018 AGM; and
- (c) in respect of Section 197 of the Companies Act, and in line with the extension mentioned in paragraph 6.2(a) above, a similar extension of time of up to 30 November 2021, for the Company to file the Relevant Annual Returns,

(collectively, the “**Fixed AGM, Financial Statements and Annual Returns Extensions**”).

6.3. The Company is seeking the Ongoing AGM, Financial Statements and Annual Returns Extensions (or in the alternative, the Fixed AGM, Financial Statements and Annual Returns Extensions) for similar reasons as set out in paragraph 4.4 (read with paragraphs 3.2(c) to (e)) above.

7. FURTHER ANNOUNCEMENTS

The Company will make further announcements to update its shareholders on the status of the applications mentioned above, in due course.

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12 International Business Park, Swiber@IBP #01-05, Singapore 609920
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www.swiber.com

By Order of the Judicial Managers
Bob Yap Cheng Ghee
Joint and Several Judicial Manager
30 April 2020

By Order of the Board
Raymond Kim Goh
Chairman
30 April 2020