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Regulatory Action

16 February 2022

SGX RegCo reprimands Debao Property Development Limited

Public reprimand: Breach of Listing Rules

1. Singapore Exchange Regulation (SGX RegCo) reprimands Debao Property Development Limited (Company) for breaches of the Listing Rules.
2. SGX RegCo was alerted to possible breaches of the Listing Rules and received information from the Company in March 2021 in the course of our investigation. Our investigation uncovered that the Company had breached the following Listing Rules in relation to its acquisition of Elite Starhill Sdn. Bhd. (Elite Starhill), as announced by the Company in September 2015 (Announcement):

- **Listing Rule 1015:** Failure to comply with the requirements under Listing Rule 1015 when the relative figure computed for the acquisition of Elite Starhill (Acquisition) under Listing Rule 1006(c) exceeded 100%:

The Company had failed to consider an additional payment under an agreement titled “Development Agreement” as part of the consideration of the Acquisition. As a result, the Company computed the relative figure under Listing Rule 1006(c) without taking into account the Development Agreement, and classified the Acquisition as a “discloseable transaction”, instead of a “very substantial acquisition”, when the said relative figure exceeded 100%. The Acquisition was therefore not subject to the requirements under Listing Rule 1015, as should all transactions that are classified under the category of “very substantial acquisition”.

- **Listing Rule 703(4)(a) read with paragraph 25(a) of the Corporate Disclosure Policy, Appendix 7.1:** Failure to disclose the Development Agreement in the Announcement, causing the Announcement to be unclear.
- **Listing Rule 704(17):** Failure to immediately announce the Acquisition on or around 4 September 2015, which was the date when the acquisition was completed and resulting in Elite Starhill becoming a subsidiary of the Company.

Details of the Listing Rules Breaches

3. On 25 September 2015, the Company announced (the Announcement) the completion of the Acquisition for a cash consideration of RM 10 million (Consideration). Following the Acquisition, Elite Starhill became a wholly-owned subsidiary of the Company.
4. According to the Announcement that was issued under the order of the Board¹, Elite Starhill, which had not commenced business, was then in the process of purchasing a plot of land located at Geran 42800, Lot 1289, Bandar Kuala Lumpur, Daerah Kuala Lumpur, Wilayah Persekutuan K.L. and measuring in area of approximately 8,362 square metres (Imbi Land) at a consideration of RM 388 million. The Consideration was arrived at after taking into account the net tangible asset of Elite Starhill (RM 40,000) and the potential developments on the Imbi Land thereon. The Announcement further stated that the Company had agreed to enter into the sale and purchase agreement for the Acquisition on the basis that the relevant agreements in relation to the purchase of the Imbi Land were valid, enforceable and subsisting.
5. Listing Rule 1004 states that a transaction [as defined under Listing Rule 1002(1)] may be classified as a “non-discloseable transaction”, “discloseable transaction”, “major transaction”, or “very substantial acquisition or reverse takeover”.
6. Listing Rule 1006 sets out the bases to compute the relative figures for determining the classification of the transaction. The basis under Listing Rule 1006(c) compares the aggregate value of the consideration given or received with the issuer's market capitalisation based on the total number of issued shares excluding treasury shares.
7. Paragraph 7.1.2 of Practice Note 10.1 states that, for the purposes of determining the relative figure of Rule 1006(c), the aggregate value of consideration given or received should include further amounts related to the transaction.
8. The Company classified the Acquisition as a “discloseable transaction” within the meaning of Chapter 10 of the Listing Manual, as it had computed the relative figure on the bases set out in Listing Rule 1006(c) using the Consideration. The relative figure, which the Company had computed, exceeded 5% but did not exceed 20%.
9. As part of SGX RegCo's investigation, the Company furnished two agreements to SGX RegCo. These agreements were namely, (a) the sale and purchase agreement dated 2 September 2015 entered into between the Company's subsidiary, Debao Property Development (HK) Limited (Debao HK) and the vendors of Elite Starhill for the acquisition of Elite Starhill at RM 10 million, and (b) a Development Agreement dated 3 September 2015 entered into between Debao HK and the vendors of Elite Starhill to appoint the vendors as project coordinators to acquire Imbi Land, for a fixed fee of RM 388 million (Additional Consideration). Both agreements were entered into with the same vendors almost concurrently.
10. Having considered that the Additional Consideration was to be paid to the vendors of Elite Starhill and the fact that Acquisition was contemplated on the basis that relevant agreements in relation to the acquisition of Imbi Land were valid, enforceable and subsisting, the Additional Consideration ought to be deemed as further amounts related to the Acquisition and should be

aggregated with the Consideration in determining the classification of the Acquisition under Listing Rule 1004.

11. The relative figure computed under Listing Rule 1006(c), using the aggregate of the Consideration and Additional Consideration, exceeds 100% and should accordingly be classified as a “very substantial acquisition” and be subject to Listing Rule 1015.
12. The Company had therefore breached Listing Rule 1015, by failing to comply with the requirements under the said rule in relation to the Acquisition, when the relative figure computed under Listing Rule 1006(c) using the aggregate of the Consideration and Additional Consideration exceeded 100%.
13. Listing Rule 703(4)(a), read with paragraph 25(a) of the Corporate Disclosure Policy, Appendix 7.1 requires the content of an announcement to be factual, clear and succinct.
14. The Company did not disclose the information on the Development Agreement and the associated payments to be made to the vendors of Elite Starhill in its Announcement. As a result of the non-disclosure, the Announcement failed to provide a complete context of the transactions with the vendors and was inaccurate about the aggregate amount to be paid to the vendors.
15. The Company had accordingly breached Listing Rule 703(4)(a), read with paragraph 25(a) of the Corporate Disclosure Policy, Appendix 7.1, by failing to disclose the Development Agreement and the associated fees to be paid to the vendors of Elite Starhill, and caused the announcement of 25 September 2015 to be unclear.
16. Listing Rule 704(17)(c) requires an issuer to immediately announce any acquisition of shares resulting in a company becoming a subsidiary or an associated company of the issuer.
17. The Company’s subsidiary, Debao HK, executed the sale and purchase agreement of the Acquisition on 2 September 2015 and the shares were transferred to Debao HK on 4 September 2015. However, the announcement was only made on 25 September 2015. The Company had breached Listing Rule 704(17)(c), by failing to immediately disclose the acquisition of the shares in Elite Starhill which resulted in Elite Starhill becoming a subsidiary of the Company on or around 4 September 2015.

^[1] The Board during the material time comprised Mr. Yuan Le Sheng (Executive Chairman and CEO), Mr. Zhang Mao (Executive Director), Mr. Zhong Yu Zhao (Executive Director), Ms. Zheng Li Hua (Non-Executive Director), Mr. Alfred Cheong Keng Chuan (Lead Independent Director), Mr. Jack Chia Seng Hee (Independent Director) and Mr. He Guo Quan (Independent Director).

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