Regulatory Announcement

6 April 2022

SGX RegCo's Statement on Allied Technologies Limited's Special Audit Report

Singapore Exchange Regulation (SGX RegCo) refers to the Notices of Compliance (NOC) issued to Allied Technologies Limited (the Company or ATL) on 8 and 23 May 2019 and the Company's announcement dated 6 April 2022 on the special audit report prepared by the special auditor, PricewaterhouseCoopers Risk Services Pte Ltd (PwC). PwC reported the findings directly and solely to SGX RegCo.

Background

During the Company's audit for financial year ended 31 December 2018 (FY2018), the Company's statutory auditors, Ernst & Young LLP (Auditors) raised concerns on, among others, ATL's acquisitions of 51% in Asia Box Office Pte. Ltd. (ABO) and 51% in Activpass Holdings Pte. Ltd. (Activpass), and that funds of S$33.4 million held in escrow by a law firm, JLC Advisors LLP (JLC), have yet to be returned to the Company. The Auditors' concerns were disclosed in the announcement dated 8 May 2019. In consultation with SGX RegCo, the Company committed to the appointment of a special auditor to look into the matters of concern.

Following that, on 22 May 2019, ATL received a letter from JLC which stated that the Company's funds held in escrow had purportedly been paid out of the escrow account by one of JLC's partners, Ong Su Aun Jeffrey (Jeffrey Ong) and that such payment might have been unauthorised. On the same day, the Law Society of Singapore issued a notice of intervention into the client accounts of JLC. It was also noted that Jeffrey Ong had resigned as a director of another company, Annica Holdings Limited, at around the same time and the continuing sponsor was unable to arrange for an exit interview with him.

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In view of the above, SGX RegCo issued NOCs on 8 and 23 May 2019 to require the Company to, amongst others, procure the release of the escrowed funds and place them with a financial institution licensed and approved by MAS. The special auditor was also required to report all findings solely to SGX RegCo. In addition, pursuant to Catalist Rules 305(1)(d), SGX RegCo will object to any future appointment of Jeffrey Ong as a director or executive officer of any company listed on SGX-ST until the matters of concern have been adequately resolved. Jeffrey Ong was first charged in the State Courts on 1 June 2019. During the course of the special audit, PwC spoke to former and current directors as well as key management of the Company and professionals, vendors and other relevant parties to the transactions reviewed by PwC. PwC also conducted interviews with Jeffrey Ong in Changi prison. It is notable that Jeffrey Ong's version of events stands in sharp contrast to the version relayed to PwC by those involved in the Company. Although Jeffrey Ong's version of events may explain some of the gaps / questions that PwC has raised in relation to the transactions carried out, PwC does not have independent corroborative evidence to validate Jeffrey Ong's version of events.

Below are observations made by SGX RegCo based on findings from PwC's special audit report and other relevant documents.

Findings from PwC's special audit report

- ***Disposal of AMSH and ATSU; acquisition of ABO***

The management and relevant Board members of the Company had represented to PwC that the disposals of Allied Machineries (Shanghai) Co., Ltd (AMSH) and Allied Technologies (Suzhou) Co., Ltd (ATSU), the acquisition of ABO and the placement exercise in September 2017 (First Placement) were standalone transactions and were natural consequence of one another.

Jeffrey Ong suggests that the following transactions were carried out as part of a prearranged deal to achieve the objectives of former Managing Director and CEO, Hsu Ching Yuh @ Sheu Ching Yuh (Hsu), existing Executive Director Kenneth Low Si Ren (Kenneth Low) and existing shareholder Lim Tah Hwa.

According to Jeffrey Ong, Hsu wanted to leave the Company but retain control and ownership of two China entities, namely AMSH and ATSU. On the other hand, Kenneth Low and Lim Tah Hwa wanted to take control of a listed company with minimum cash outlay. A deal was thus structured to achieve both objectives.

According to Jeffrey Ong's recollection, Kenneth Low and Lim Tah Hwa paid the disposal consideration for AMSH and ATSU on behalf of Hsu (given that the acquirers were nominees introduced by Hsu). In exchange, Hsu transferred his controlling stake of 18.5% in the Company to Kenneth Low and Lim Tah Hwa at a nominal value. Low Yew Shen of Elitaire Law LLP facilitated and arranged the deal.

Following the disposals of AMSH and ATSU, Hsu stepped down from the Board and management of the Company. However, PwC noted from the Company's Board Minutes that emails were sent by Hsu informing customers that he will continue to manage the affairs of AMSH even after he has resigned from the Company. PwC cannot establish conclusively if the events relating to the disposal of AMSH were natural consequences or if there was indeed a pre-meditated plan for Hsu Ching Yuh to exit ATL, take over AMSH and continue running it.

The Company acquired 51% of ABO for S$30 million. This was supported by a valuation conducted by Alternative Advisors Pte Ltd (Alternative Advisors), valuing ABO at between S$57 million to S$62.3 million. Both the Auditors and PwC found that significant contracts for events such as Cirque du Soleil and Summer Sonic Festival, which formed the basis of the valuation, had in fact not been confirmed. It is unclear as to the extent of due diligence conducted by Alternative Advisors in preparing the valuation report.

Hsu, being the former Managing Director and CEO of the Company, was an interested person of the Company. If AMSH and ATSU were indeed disposed to Hsu, these transactions would have constituted interested person transactions (IPTs) which should have been subjected to independent shareholders' approval pursuant to Listing Rule / Catalist Rule 906(1). Instead, the disposal of AMSH was treated as a major transaction under Listing Rule 1014 and the disposal of ATSU was treated as a discloseable transaction under Catalist Rule 1010. Shareholders' approval was not sought for the disposals which would have been required for IPTs under the Rules. Accordingly, the disposals of AMSH and ATSU to Hsu would have circumvented Listing Rule / Catalist Rule 906(1).

- ***First Placement***

An escrow account was set up with JLC (Escrow Account) to supposedly ringfence proceeds of S$30 million raised from the Company's placement exercise in September 2017 (First Placement).

According to Jeffrey Ong's recollection, the funding of the First Placement was to be fully arranged and guaranteed by Kenneth Low and Lim Tah Hwa. OCBC Securities Private Limited was the placement agent and had sought to list new shares representing 100% of the Company's existing share capital. Kenneth Low introduced a number of placees to take up the placement and also sought assistance from Lim Tah Hwa in this regard. Upon completion, Kenneth Low and Lim Tah Hwa (via the placees introduced by them) would have obtained control over 50% of the Company's enlarged share capital and circumvented Catalist Rule 803 which requires prior shareholders' approval to be sought when securities are issued to transfer a controlling interest (of 15% or more).

The placement proceeds were meant for the acquisition of 51% stake in ABO. In reality, however, the Escrow Account was used as an external "suspense account" to pool various sources of funds and to set off cash payments of various nature including holding the receipts from the disposal of AMSH and ATSU. As at the date of PwC's report, the status of the missing funds from the Escrow Account held with JLC remains unknown. PwC was unable to verify the accuracy of the movement of funds in the Escrow Account as the bank statements of JLC supporting such movement was not made available for review.

More details on Jeffrey Ong and the missing escrow funds are below, particularly in the **Referrals to relevant agencies and authorities** section.

- ***Second Placement***

In June 2018, UOB Kay Hian Credit Private Limited (UOB Kay Hian Credit) provided financing of $25.2 million to four placees for the purpose of subscribing for 420 million shares (representing 23.72% of the enlarged share capital) in the Company via a placement exercise (Second Placement).

The Placement proceeds were meant for the acquisition of 51% stake in Activpass. In reality, however, there was no physical movement of funds from the placees to ATL, nor from ATL to the owners of Activpass, as elaborated in the ensuing section.

- ***Acquisition of Activpass***

Roger Poh Wee Chiow (Roger Poh) was the executive director of ATL during the material time when the Company was undertaking an acquisition of 51% stake in Activpass.

The Company was introduced to Kingsblade Kabushiki Kaisha Group (Kingsblade) by Nicholas Zheng Jiabin (also known as Nicholas Tei). During the special audit, PwC retrieved a profile on Kingsblade which listed Roger Poh as its Head of Credit, and Karen Pok Mee Yau (Karen Pok) as its Legal Counsel. However, during interviews with PwC, Roger Poh and Karen Pok denied being part of Kingsblade's management team or involved in any professional capacity with Kingsblade. (Roger Poh and Karen Pok were the executive director and independent director of ATL respectively during the material time).

Kingsblade facilitated the Company's acquisition of 51% stake in Activpass via a "front end" agreement which was in the form of a memorandum of understanding (MOU). A formal sale and purchase agreement (SPA) was eventually entered into between the owners of Activpass and the Company (represented by Roger Poh) which was announced via SGXNet.

However, PwC discovered that a “back end” shareholder agreement was entered into between the owners of Activpass and Kingsblade (Private Contract). The Private Contract stipulates that the owners of Activpass will only get a fixed consideration amount of between S$10 million to S$15 million (which is less than the consideration amount of S$25.2 million as stated in the SPA). The difference between the consideration to be paid by the Company (as per the SPA) and the agreed fixed consideration (as stated in the Private Contract) will belong to Kingsblade. The above arrangement inevitably resulted in the Company overpaying between S$10.2 million to S$15.2 million to acquire 51% stake in Activpass.

If Roger Poh was aware of the Private Contract, he would be the only director of ATL who had full knowledge of the Private Contract. In these circumstances, his failure to disclose the Private Contract and his actions in facilitating the scheme would be a serious breach of his fiduciary duties to ATL.

Based on PwC’s review of the flow of funds, there was no physical movement of funds between the placees of the Second Placement to the Company and from the Company to the owners of Activpass. It appears to SGX RegCo that the transactions were accomplished via a supposed “round-tripping” exercise as follows. PwC noted that UOB Kay Hian Credit had provided financing of S$25.2 million to the placees for the purpose of the Second Placement. PwC also noted that ATL instructed UOB Kay Hian Credit to transfer the S$25.2 million placement proceeds arising from the Second Placement to Kingsblade on the premise that the owners of Activpass allegedly had an outstanding loan of an identical amount owing to Kingsblade. Thereafter, Kingsblade paid UOB Kay Hian Credit the $25.2 million as settlement of the loan extended by UOB Kay Hian Credit to the placees, on the basis that Kingsblade had entered into a novation agreement to take over such loan from the placees. In summary, UOB Kay Hian Credit facilitated the Second Placement and the acquisition of Activpass via a series of internal transfers which were made almost immediately. Several agreements were prepared by Morgan Lewis Stamford LLC, acting as lawyers for UOB Kay Hian Credit, to facilitate the above arrangement.

PwC understands from interviews with representatives of UOB Kay Hian Credit that even though the transaction flow was not usual, the transactions were completed almost simultaneously. UOB Kay Hian Credit appeared to have received fees of S$999,000 for undertaking such a role.

The Company acquired 51% of Activpass for S$25.2 million. This was supported by a valuation performed by Baker Tilly Consultancy (Singapore) Private Limited, valuing Activpass at between S$57 million and S$60.7 million. The valuation was based on seemingly aggressive forecasts that Activpass’ revenues would grow from S$2.1 million in 2019 to S$41.8 million in 2023, and EBIT would grow from S$0.2 million to S$26.5 million during the same period.

PwC noted that the above financial structuring arrangement resulted in 420 million shares of the Company (representing 23.72% of enlarged share capital) being issued to Kingsblade and/or the placees. PwC further noted that as at end of December 2018, 280 million of the shares appear to have been sold in the market.

If the placees were indeed nominees of Kingsblade, the issuance of 420 million new shares in the Company would have represented a transfer of controlling interest. The financial structuring arrangement had therefore enabled the Second Placement to circumvent Listing Rule 803 wherein prior shareholders' approval ought to have been sought in view of the transfer of controlling interest to Kingsblade and its nominees.

On 28 May 2019, Kenneth Low was requested by the Commercial Affairs Department (CAD) to help with investigations into the affairs of the Company. On 7 April 2021, he was arrested by CAD and was named as the co-accused in five of the charges that Jeffrey Ong is facing. PwC noted in its special audit report that even though Kenneth Low was only appointed to the Board in June 2018, there is some indication that he was involved in the Company's affairs since as early as January 2018. As a result, Kenneth Low could be deemed as a "shadow" director and would be subject to the same duties applicable to other directors.

Referrals to relevant agencies and authorities

PwC's review of the Escrow Account was limited as they did not have access to the financial records and bank statements of JLC. The Law Society, with the assistance of RSM Chio Lim LLP (RSM), has conducted an independent inquiry into JLC. SGX RegCo will refer PwC's findings to the Law Society and RSM for their further inquiry into the flow of funds, with the view of accounting for the Company's S$33.4 million escrowed with JLC.

We note that Jeffrey Ong has been charged in Court for 76 charges including cheating, forgery and criminal breach of trust as an attorney involving a total sum of more than S$75 million. It was also announced that Kenneth Low was arrested and released on bail by CAD and was named as the co-accused in five of the charges that Jeffrey Ong is facing. SGX RegCo will also refer the special audit report to the relevant authorities and agencies, for their further investigation into these transactions. If such further investigations and / or Court judgement support breaches of the listing rules, SGX RegCo will proceed to take disciplinary actions against the culpable parties.

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