



Regulatory Announcement

16 June 2022

SGX RegCo's Statement on Spackman Entertainment Group Limited's Independent Review Report

Singapore Exchange Regulation ("SGX RegCo") refers to the Notice of Compliance ("NOC") issued to Spackman Entertainment Group Limited (the "Company") on 3 September 2020 and the Company's announcement on 16 June 2022, in relation to findings by independent reviewer, Deloitte & Touche Financial Advisory Services Pte. Ltd. ("Deloitte").

Background

Between March 2017 and August 2018, the Company entered into five share sale and purchase agreements ("SPAs") with various vendors to purchase shares in Spackman Media Group Limited ("SMGL") at US\$3 each, increasing the Company's shareholding in SMGL from 24.53% to 43.88% interest (the "Past Acquisitions").

In the announcements on the Past Acquisitions and in response to SGX RegCo's queries, the Company had confirmed that none of the directors or the controlling shareholders of the Company has any direct or indirect interest in the Past Acquisitions, nor are they related to the vendors of the Past Acquisitions (the "Vendors").

On 18 August 2020, the Company entered into a non-binding memorandum of understanding to sell its entire 43.88% interest in SMGL (the "Proposed Divestment") to its substantial shareholder, Spackman Equities Group Inc ("SQG"), at S\$2.30 per share (the "Disposal Consideration").

Notice of Compliance ("NOC")

As the Disposal Consideration was significantly lower than the purchase consideration for the Past Acquisitions and there are common directors in the Company, the target (SMGL) and the purchaser (SQG), concerns were raised as to whether the terms of the Past Acquisitions and Proposed Divestment were prejudicial to the Company.

Singapore Exchange Regulation Pte. Ltd.

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On 3 September 2020, SGX RegCo issued a NOC to the Company, directing the Company's Audit & Risk Committee ("ARMC") to review the Past Acquisitions, conduct background checks on the Vendors and determine if the Past Acquisitions were entered into on normal commercial terms and were not prejudicial to the interests of the Company and its minority shareholders (the "Independent Review").

The Company announced the termination of the Proposed Divestment on 30 September 2020.

Findings from Deloitte's Independent Review Report

In the Independent Review report released on 16 June 2022, Deloitte was unable to conclude if the acquisition price of US\$3 per SMGL share was reasonable due to a lack of a proper valuation being conducted on SMGL. The Board had relied on the representations from the Company's management and past events and reports to approve the Past Acquisitions. For this, Deloitte highlighted that the Board should have commissioned a valuation of the SMGL shares to safeguard the interest of the Company's shareholders.

Deloitte identified connections or relationships between certain Vendors of the Past Acquisitions with Mr Charles Choi Spackman ("Charles", former director and CEO of the Company) and Mr Richard Lee ("Richard", the Company's non-executive director and former interim CEO and current executive director of SMGL, the target). Deloitte highlighted that 63.72% of SMGL's shares were acquired from entities connected to Charles' wife and brother-in-law. However, acquisitions connected to Charles' wife were entered into only after Charles stepped down from the Company's Board. Deloitte also observed that Richard was the contact person responsible for holding corporate and financial records of certain Vendors during the period of the Past Acquisitions. Notwithstanding, there was no conclusive evidence on other relationships between Richard and the Vendors. As such, Deloitte is of the view that the Past Acquisitions do not constitute interest person transactions ("IPTs") under Chapter 9 of the Catalist Rules.

Deloitte observed that only the first SPA was discussed and recorded in a board meeting held on 24 February 2017. No board meetings were convened to discuss the second to fifth SPAs and these agreements were approved by way of BOD resolutions in writing. The resolutions were dated the same day as the date of the respective announcements of the SPA save for that for the third SPA, which was dated after the date of the announcement. The date of the fifth SPA was different from the date referred to in the Company's announcement. In addition, there was no evidence that the Past Acquisitions were approved by the Company's investment review committee. From the interviews with the Company's independent directors and management, Deloitte understood that the Company's plans were to undertake the Past Acquisitions over a period of time instead of undertaking it over a single transaction.

While the Past Acquisitions were entered into and announced as five separate SPAs between March 2017 to August 2018, Deloitte pointed out that had the Past Acquisitions been announced as a single transaction in March 2017, they would constitute an IPT requiring shareholders' approval as Charles' wife was the ultimate beneficial owner of one of the Vendors in March 2017 and he was then the Company's CEO and director.

However, since the third to fifth SPAs were entered into only after Charles stepped down from the Company's Board, Deloitte is of the view that the Past Acquisitions do not constitute IPTs. There was no evidence to indicate that the Past Acquisitions were intended as one transaction.

Charles and Richard did not disclose their relationships and connections with the Vendors. Accordingly, the independent directors were not aware of the potential conflict of interests and were unable to make informed decisions when approving the Past Acquisitions. Furthermore, the Company did not conduct any background checks on the Vendors on third party databases. Deloitte highlighted that, for good corporate governance, Charles and Richard should have disclosed their relationships with certain Vendors in the SPA announcements and abstained from voting on and approving the Past Acquisitions.

Rule Breaches and Referrals to authorities

While Deloitte had identified relationships between certain Vendors of the Past Acquisitions with Charles and Richard, the relationships do not fall under the definition of IPT under Catalist Rule 904 at the time when the transactions occurred prior to the revised IPT rules in February 2020. The IPT rules have been amended to enable SGX RegCo to deal with this situation and to deem any person or entity to be an interested person.

Deloitte concluded potential breaches of (i) Catalist Rule 719(1) in relation to the Company's failure to maintain a robust and effective system of internal controls to address financial, operational and compliance risks pertaining to the Past Acquisitions; and (ii) Catalist Rule 1010(5) in the announcements of the Past Acquisitions, where the Company did not announce the basis in determining the purchase consideration of USD3 per SMGL share.

SGX RegCo will look into the potential rule breaches and where relevant, refer the Independent Review report to the relevant authorities for their further investigation into the Past Acquisitions. Where investigations indicate breaches of the listing rules, SGX RegCo will proceed to take disciplinary actions against the culpable parties.

Disclosure is fundamentally important to the operation of a fair and orderly market and SGX RegCo expects listed issuers and their boards to uphold high disclosure standards. The Exchange expects listed issuers to conduct adequate due diligence and exercise due care prior to entering into acquisitions and disposals. Listed issuers should also establish adequate and effective systems of internal controls to safeguard the interest of the company and its shareholders.

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