

香港聯合交易所有限公司

(香港交易及結算所有限公司全資附屬公司)

THE STOCK EXCHANGE OF HONG KONG LIMITED

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

## STATEMENT OF DISCIPLINARY ACTION

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Exchange's Disciplinary Action against Six Former Directors of National Investments Fund Limited (Stock Code: 1227)

### SANCTIONS AND DIRECTIONS

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

**IMPOSES A PREJUDICE TO INVESTORS' INTERESTS STATEMENT** against:

- (1) **Mr Wong F Danny (Mr Wong)**, former Chairman and executive director (**ED**) of National Investments Fund Limited (**Company**);
- (2) **Mr Liu Jin**, former independent non-executive director (**INED**) of the Company (**Mr Liu**);

**CENSURES:**

- (3) **Dr Fong Chi Wah**, former ED of the Company (**Dr Fong**);
- (4) **Mr Wu Tse Wai Frederick**, former ED of the Company (**Mr Wu**);
- (5) **Mr Law Tze Lun**, former INED of the Company (**Mr Law**); and
- (6) **Mr Char Shik Ngor, Stephen**, former INED of the Company (**Mr Char**).

(The directors identified at (1) to (6) above are collectively referred to as the **Relevant Directors**.)

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The statements made in respect of Mr Wong and Mr Liu above are made in addition to a public censure against them. The Prejudice to Investors' Interests Statement is a statement that, in the Exchange's opinion, had either of Mr Wong or Mr Liu remained on the board of directors of the Company (**Board**), the retention of office by him would have been prejudicial to the interests of investors.

**AND FURTHER DIRECTS** (a) each of Dr Fong, Mr Law and Mr Char to attend 15 hours of training on regulatory and legal topics including Listing Rule compliance (**Training**) within 90 days from the date hereof; and (b) Mr Wu to attend the Training, as a prerequisite of any future appointment as a director of any company listed or to be listed on the Exchange.

### **SUMMARY OF FACTS**

The Company is an investment company listed under Chapter 21 of the Listing Rules.

The Company's primary investment objective has been to achieve short to medium term (less than one year to five years) capital appreciation by investing in listed and unlisted companies mainly in Hong Kong and the PRC.

The Board was responsible for the approval of all investment decisions and the formulation of the Company's investment objectives and policies.

An investment manager undertook all investment and management duties subject to the investment policies devised by the board from time to time. The investment manager was primarily responsible for analyzing investment opportunities identified by it as well as investment opportunities which might be identified by the Board. The Board was responsible for the supervision of the investment manager.

Rule 21.12(3) requires the Company to make an announcement each month of its net assets value per share (**NAV**). At the material time between 2011 and 2015, the Company's chief financial officer sent monthly financial updates (**Monthly Updates**) to the Relevant Directors. The Relevant Directors also each month approved the draft announcement of the NAV through written board resolution (**Written Resolution**) before publication. The information available in the Monthly Updates included, amongst other things, the NAV, the value of non-current assets, a breakdown of individual asset items, payments made, and a grand total value of "Other tangible assets".

The Company's key financial position at the material time was as follows:

- (a) The NAV dropped from a high point of \$1.14 as at the end of 2012 to \$0.00076 as at the end of 2017, and turned negative, to \$(0.00976) (signifying net liabilities) as at the end of 2018:

End of Year	2010	2011	2012	2013	2014	2015	2016	2017	2018
NAV (\$)	0.26	0.101	1.140	0.283	0.198	0.045	0.022	0.00076	(0.00976)

- (b) The Company made a loss from 2011 to 2018 (except 2012), and incurred net operating cash outflows from 2012 to 2018 (except 2013), and net investing cash outflows from 2011 to 2017.
- (c) The Company's cash and bank balance dropped from \$59 million in 2011 to only \$0.1 million in 2018. Since 2017, the Company has recorded net liabilities and net current liabilities.
- (d) In 2011, the Company started recording a book value of \$1.78 million on "Motor Vehicles". In 2015, the figure for the items acquired by the Company under this category was \$8.49 million.
- (e) In 2012, the Company recorded \$5.1 million under "Property, Plant and Equipment" (which included "Motor Vehicles"). In 2013, the figure for the items acquired by the Company under this category was \$31.17 million.
- (f) In 2014, the Company started recording a book value of \$21.73 million on "Other Tangible Assets" which was stated as representing "art work, diamond and diamond ring".
- (g) The Company's 2015 annual report showed that it acquired a debenture for a club membership on 1 June 2015.

From 2011 to 2015, the Company acquired various luxury assets which were inconsistent with its investment objectives and policies, including a yacht for \$24.5 million, a diamond for \$20 million, furniture for over \$3.8 million (including, among other things, a “Chairman Office Table” for \$1.16 million, chair and desk for the chairman’s office for \$1.27 million, other “drawer, armchair, table, etc.” for \$1.2 million, a clock for over \$146,000, and a cigar cabinet for over \$42,000), seven cars for over \$8.48 million (including, among others, a Range Rover 5.0 for \$1.78 million, a BMW 760 LIA Saloon for \$3.09 million and a Mercedes Benz E400 Estate Facelift for HK\$1.3 million), a club membership for \$1.8 million, a 1.06 carat yellow diamond ring for \$230,200, a painting for \$1.5 million (**Painting**), 56 other paintings for nearly \$700,000 (notwithstanding that the Company had already spent approximately \$1.1 million on paintings in 2009). The total cost of acquiring these luxury assets was over \$61 million (The cars, the club membership, the ring and the Painting are collectively referred to as the **Relevant Assets**).

Mr Wong was appointed as an ED of the Company on 21 May 2007. He was the Chairman and the sole substantial shareholder of the Company at least from FY2010 to FY2018. He approved the Monthly Updates. According to Mr Wong, he solely approved the acquisition of the Relevant Assets without convening any Board meeting. He submitted that the cars and the club membership were for meeting with, and receiving, investees and investors of the Company, whereas the ring and the Painting were bought at auction from the Hong Kong International School Annual Fund and the Civic Party annual dinner in 2014 as alternate investment opportunities and contributions to the society to enhance the Company’s image and reputation.

The Company disposed of the yacht for \$20 million in 2014 and the diamond for \$16 million in 2018, incurring a loss of \$4.5 million and \$4 million, respectively.

On 22 March 2019, the Company announced a connected transaction involving its disposal of the Relevant Assets to Mr Wong (resigned on 18 March 2019) for \$5.825 million. According to the announcement, the disposal of the Relevant Assets was purportedly in partial settlement of loans owed by the Company to Mr Wong. The Company booked a loss in respect of these assets/purported investments of nearly \$6.2 million.

Mr Liu failed to respond to the Listing Division’s enquiries and inform the Exchange in writing of his up-to-date contact details.

**RULE REQUIREMENTS**

Rule 3.08 provides that directors, both collectively and individually, are expected 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. Specifically, under Rules 3.08(a), (b), (c) and (f), directors must act honestly and in good faith in the interests of the issuer as a whole, act for proper purpose, be answerable to the company for the application or misapplication of its assets, and 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. They must also take an active interest in the issuer's affairs and must follow up anything untoward that comes to their attention.

Pursuant to the Director's Undertaking to the Exchange in the form of Appendix 5B to the Listing Rules (**Undertaking**), each director is required to, amongst other matters, comply to the best of his ability with the Listing Rules, cooperate in any investigation conducted by the Exchange, and update his contact details with the Exchange.

**LISTING COMMITTEE'S FINDINGS OF BREACH**

The Listing Committee found as follows:

- (1) Mr Wong breached his fiduciary duties and duties of skill, care and diligence under Rule 3.08 in the Company's acquisition of the assets described in the Summary of Facts above. He has failed to address his mind to, or did not care about, their suitability, necessity and benefits for the Company as a whole, with regard to at least the Company's business nature, its investment objectives and policies, the utilization of the assets by its employees, the financial performance at the material period, the estimated market value of the ring and the Painting, and the benefit to be derived from the assets to the Company. In light of the above, he also breached his Undertaking to comply with the Listing Rules to the best of his ability.
- (2) Although the other Relevant Directors claimed that they were not involved in the acquisition of the Relevant Assets, they breached their fiduciary and director's duties under Rule 3.08 including the duties of skill, care and diligence and to take an active interest in the Company's affairs and follow up anything untoward that came to their attention in respect of the purchase of the assets in question, including the Relevant Assets, notwithstanding the circumstances described above, and breached their Undertakings to comply with the Listing Rules to the best of their ability.

- (3) Mr Liu breached his Undertaking to cooperate in the Exchange's investigation by failing to respond to the Listing Division's enquiry letter and reminder. He also breached the Undertaking to update his contact details with the Exchange.
- (4) The failure of Mr Wong and Mr Liu to discharge their responsibilities under the Listing Rules warrants a public statement against each of them that, had he remained on the Board of the Company, the retention of office by him would have been prejudicial to the interests of investors.

### **CONCLUSION**

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

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

Hong Kong, 17 March 2022