

STATEMENT OF DISCIPLINARY ACTION

Exchange's Disciplinary Action against Xinyuan Property Management Service (Cayman) Ltd (Stock Code: 1895) and Four Directors

SANCTIONS AND DIRECTIONS

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

CENSURES:

(1) **Xinyuan Property Management Service (Cayman) Ltd** (Stock Code: 01895) (**Company**);

IMPOSES A PREJUDICE TO INVESTORS' INTERESTS STATEMENT against:

- (2) **Ms Wang Yan Bo**, Executive Director (**ED**) of the Company (**Ms Wang**);
- (3) **Mr Huang Bo**, former ED of the Company (**Mr Huang**);

CENSURES:

- (4) **Mr Zhang Yong**, Non-executive Director (**NED**) of the Company (**Mr Zhang**); and
- (5) **Ms Yang Yu Yan**, NED of the Company (**Ms Yang**).

(The directors identified at (2) to (5) above are collectively referred to as the **Relevant Directors**.)

The statements made in respect of Ms Wang and Mr Huang above are made in addition to public censures against them. The Prejudice to Investors' Statement is a statement that, in the Exchange's opinion, had Ms Wang and Mr Huang remained on the Company's board of directors, the retention of office by them would have been prejudicial to the interests of investors.

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SUMMARY OF FACTS

The Relevant Transactions

Shortly after the Company was listed in October 2019, and during the period between 1 January 2020 and 31 March 2021, the Company conducted (a) ten notifiable and connected transactions with the Parent and its subsidiaries, and (b) one transaction via its joint venture company in which it held 51 per cent interest (**JVC**) with the Parent's subsidiaries (collectively, **Relevant Transactions**, and each a **RT**).

Details of the Relevant Transactions are summarised as follows.

RT#	Transferor	Transferee	Amount (approx)	Transaction Date
1	Company	Parent	RMB88m	2 Mar 2020
2	Company	Parent	RMB20m	17 Mar 2020
3	Company subsidiary	JVC	RMB35m	16 Sept 2020
	JVC	Parent subsidiary		
4	Company subsidiary	JVC	RMB60m	30 Nov 2020/ 1 Dec 2020
	JVC	Parent subsidiary		
5	Parent subsidiary	Company subsidiary	RMB39m	28 Jun 2020
6	Parent subsidiary	Company subsidiary	RMB12m	29 Sept 2020
7	Parent subsidiary	Company subsidiary	RMB41m	24 Feb 2021
8	Company	Parent	RMB120m	12 Jan 2021
9	Company subsidiary	JVC	RMB55m	4 Jan 2021
	JVC	Parent subsidiary		

10	Company subsidiary	JVC	RMB30m	15 Jan 2021
	JVC	Parent subsidiary		
11	JVC	Parent subsidiaries	RMB70m	24 Apr 2020

RT1-2: According to the Company, these transactions were loans provided to the Parent. The Company admitted that they constituted discloseable and connected transactions on an aggregated basis and financial assistance to the Parent, and that there was no written agreement setting out the terms of the loans.

RT3-4: According to the Company, these transactions were deposit payments for a potential sale and purchase of apartments. The Company admitted that they constituted discloseable and connected transactions on an aggregated basis, and that there was no written agreement setting out the terms of the alleged potential transaction.

RT5-7: According to the Company, these transactions were conducted to increase banking activity levels of the Parent's subsidiaries, without any business purpose for the Company. The Company admitted that they constituted major and connected transactions on an aggregated basis, and that there was no written agreement setting out the terms of the transactions.

RT8-10: According to the Company, they were prepayments made pursuant to a car park exclusive sales distribution agreement. The Company admitted that they constituted major and connected transactions on an aggregated basis.

RT11: According to the Company, it was a loan provided by the JVC to the Parent's subsidiaries, on the back of a bank loan that the JVC obtained.

Involvement of the Relevant Directors in the Relevant Transactions

Ms Wang and Mr Huang were closely involved in the internal approval process of the Relevant Transactions.

Mr Zhang and Ms Yang occupied significant roles in both the Company and the Parent. Mr Zhang was board chairman, executive director, CEO and a 29 per cent shareholder of the Parent, whereas Ms Yang was a Director and a 26 per cent shareholder of the Parent. Given their roles, they knew or ought reasonably to have known about the Relevant Transactions at the time. In particular, Mr Zhang was involved in the internal approval process of RT3.

LISTING RULE REQUIREMENTS

Rule 14.34 provides that, the Company is required to inform the Division and publish an announcement as soon as possible after the terms of, *inter alia*, a discloseable transaction and/or a major transaction, have been finalised.

Rules 14.38A and 14.40 provide that the Company is required to seek its shareholders' approval and issue a circular to its shareholders for any major transaction.

Rule 14A.34 provides that the Company's group is required to enter into a written agreement for a connected transaction.

Rules 14A.35 and 14A.36 provide that the Company is required to announce a connected transaction as soon as practicable after its terms have been agreed and seek its shareholders' approval.

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, directors must act honestly and in good faith in the interests of the company as a whole (Rule 3.08(a)), act for proper purpose (Rule 3.08(b)), be answerable to the issuer for the application or misapplication of its assets (Rule 3.08(c)), avoid actual and potential conflicts of interest and duty (Rule 3.08(d)), 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 (Rule 3.08(f)). Rule 3.08 provides that directors 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 (**Director's Undertaking**) (Appendix 5B to the Listing Rules), each director is required to comply to the best of his ability, and to use his best endeavours to procure the Company's compliance, with the Listing Rules.

ACCEPTANCE OF SANCTIONS AND DIRECTIONS

The Company and the Relevant Directors have agreed with the Exchange to admit their respective breaches, and accepted the sanctions and directions imposed on them by the Listing Committee, as set out in this statement.

The settlement is agreed on various terms including but not limited to that:

- (1) the Relevant Directors shall immediately resign from, and cease to hold, all directorships and/or executive or management positions in the Company and its subsidiaries; and
- (2) Mr Zhang and Ms Yang each undertakes to the Exchange and the Company that they would not use any shares, voting power and/or position which they hold (directly or indirectly) in the Company group or the Company's majority shareholder (ie Xinyuan Real Estate Co., Ltd. (**Parent**)) to influence the business and operations of the Company group under all circumstances, including in particular any decision by the Company to enter into any transactions with or make any payment to the Parent or the wider Parent group.

LISTING COMMITTEE'S FINDINGS OF BREACH

The Listing Committee found as follows:

(1) For the Company, it breached the following Rules:-

- (a) Rules 14.34, 14A.34, 14A.35 and 14A.36 in respect of RT1, RT2, RT3 and RT4;
- (b) Rules 14.34, 14.38A, 14.40, 14A.34, 14A.35 and 14A.36 in respect of RT5, RT6 and RT11; and
- (c) Rules 14.34, 14.38A, 14.40, 14A.35 and 14A.36 in respect of RT7, RT9 and RT10.

(2) For the Relevant Directors:

- (a) Ms Wang and Mr Huang were closely involved in the Relevant Transactions at the time, and Mr Zhang knew or ought reasonably to have known about the transactions, and Ms Yang ought reasonably to have known about the transactions. The transactions took place over a considerable period of time from March 2020 to February 2021 (i.e. about eleven months) and involved significant outgoing sums (e.g. RT1-2 involved RMB108 million and RT3-4 involved RMB95 million).
- (b) The Relevant Transactions were mainly conducted for the benefit of the Parent, and some of them amounted to financial assistance to the Parent, as admitted by the Company. As a result, the Company had been deprived of the use of the funds during the term of the transactions.

- (c) The Relevant Directors failed to protect the Company's interests as a whole for the Relevant Transactions, on a serious and alarming level. In respect of some of the transactions (e.g. RT1-7 and RT11), there was no written agreement to set out their terms. This significantly increased the Company's risk in case of the Parent's default.
- (d) The Relevant Directors had a duty to act in the Company's interests as a whole in its management of the JVC in which the Company held a 51 per cent interest, especially where Mr Huang served as one of the three directors in the JVC. The RMB70 million loan from the JVC to the Parent made under RT11 has not been returned to the JVC so far. The JVC therefore continues to be exposed to the credit risk of not being repaid the loan.
- (e) Some of the Relevant Transactions appear to lack business substance, contrary to the Company's submission. For instance, an internal approval document for RT3 appears to contradict the Company's submission that it was a deposit payment for a potential sale and purchase transaction of apartments. Also, an independent investigation noted that RT8 was primarily made to finance the Parent's offshore debt obligations, which contradicts the Company's submission that it was intended to be a prepayment under the car park exclusive sales distribution agreement.
- (f) Given that they knew or ought reasonably to have known about the Relevant Transactions, the Relevant Directors failed to escalate the Relevant Transactions to the Board of Directors of the Company for discussion/ consideration of the Rule implications of the Relevant Transactions, or procure the Company to consult its professional advisers (including its Compliance Adviser) on the Rule implications. Also, they have repeatedly failed to take steps to procure the Company's Rule compliance in respect of the Relevant Transactions. They did not have any regard for the rules governing material and/or connected transactions of listed companies and the responsibilities that they undertook on their appointment as the Company's directors.
- (g) Given their shareholding of and directorship in the Parent, Mr Zhang and Ms Yang were clearly in a conflict of interest position in respect of the Relevant Transactions, especially for RT3 in which Mr Zhang was involved in the internal approval process. They have failed to avoid and properly address their conflict of interest in relation to the Relevant Transactions.

- (h) For reasons above, the Relevant Directors have breached their duties under Rule 3.08 and the Undertakings, and that the failures of Ms Wang and Mr Huang to discharge their Rule responsibilities were wilful and/or persistent.

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 Company and the Relevant Directors, and not to any other past or present directors of the Company.

Hong Kong, 28 November 2022