

## STATEMENT OF DISCIPLINARY ACTION

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Exchange's Disciplinary Action against C-Link Squared Limited (Stock Code: 1463) and Two Former Directors

### SANCTIONS

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

#### **CENSURES:**

- (1) **C-Link Squared Limited** (Stock Code: 01463) (**Company**);
- (2) **Mr Ling Sheng Hwang**, former Executive Director (**ED**) of the Company (**Mr F Ling**); and
- (3) **Mr Ling Sheng Chung**, former ED of the Company (**Mr W Ling**).

(The directors identified at (2) to (3) above are collectively referred to as the **Relevant Directors**.)

### SUMMARY OF FACTS

The Company entered into service agreements on the day of, or very shortly after, listing. Pursuant to these agreements, non-refundable payments of HK\$38.5 million were made to the service providers within a week of listing. This substantial sum was equivalent to more than half of the Company's IPO proceeds from listing, but these transactions and payments were not disclosed at the time.

On 12 March 2020, the Company submitted its finalised profit and cash flow forecast memorandum to the Exchange (**Memorandum**).

On 17 March 2020, the Company issued its listing prospectus (**Prospectus**).

On 27 March 2020, the Company was listed on the Exchange.

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On the same day, the Company and a LV Capital Limited (**LV Capital**) signed a service agreement (**LV Capital Agreement**). It was agreed that LV Capital would assist the Company as a consultant on matters relating to capital markets, accounting and finance, and post-listing obligations and requirements. The service period was three years starting from 27 March 2020, and a non-refundable service fee of HK\$6.25 million was payable in advance within ten working days of the agreement.

On 2 April 2020, the Company and IBC BECL International Capital Limited (**IBC BECL**) signed four service agreements (but which were dated 9 March 2020) (**IBC BECL Agreements**). It was agreed that IBC BECL would provide the Company with investor relations consultancy services, special road show investor relations consultancy services, market research consultancy services, and data centre consultancy services. The service periods ranged from one to three years starting from 1 April 2020, and a total/ non-refundable service fee of HK\$32.25 million was payable in advance within five days of the agreement.

On 3 April 2020, the Company paid the service fees of HK\$6.25 million to LV Capital and of HK\$32.25 million to IBC BECL.

On 30 March 2021, the Company published its annual results for the year ended 31 December 2020. In those results, the Company recorded a net loss of RM5.1 million, which was RM18.4 million lower than the net profit of RM13.3 million forecasted in the Memorandum. The shortfall was due to, amongst other things, the aforesaid service fees paid to LV Capital and IBC BECL.

Mr F Ling negotiated and executed the LV Capital Agreement and the IBC BECL Agreements (collectively, **Service Agreements**). Mr W Ling had close knowledge of the Service Agreements.

### **LISTING RULE REQUIREMENTS**

Rule 2.13(2) provides that information contained in any announcement or corporate communication required pursuant to the Rules must be accurate and complete in all material respects and not be misleading or deceptive.

Rule 3A.05 provides that a new listing applicant and its directors must assist the sponsor to perform its role and must ensure that its substantial shareholders and associates also assist the sponsor. In particular, Rule 3A.05(5) provides that the applicant must keep the sponsor informed of any material change to any information previously given to or accessed by the sponsor.

Rule 3A.23 provides that, during the Fixed Period as defined in Rule 3A.01(4), a listed issuer must consult with and, if necessary, seek advice from its Compliance Adviser on a timely basis in certain

circumstances, including but not limited to where the listed issuer proposes to use the proceeds of the initial public offering in a manner different from that detailed in the listing document or where the business activities, developments or results of the listed issuer deviate from any forecast, estimate, or other information in the listing document.

Rule 11.07 provides that all listing documents must, as an overriding principle, contain such particulars and information which, according to the particular nature of the issuer and the securities for which listing is sought, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities, financial position, management and prospects of the issuer and of its profits and losses and of the rights attaching to such securities.

Guidance Letter 86-16 (last updated in January 2022) provides guidance on, amongst other things, what information the Exchange typically expects to be included in a listing document and how listing documents should be produced which fulfil the general principles of the Rules. Such expectation includes disclosing, in the “Summary and Highlights” section, future plans and prospects such as a breakdown of the use of proceeds for various future plans (see page 12 of GL86-16).

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)), 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)).

Pursuant to the Director’s Undertaking to the Exchange (**Director’s Undertaking**) (Appendix 5B to the Listing Rules), each Relevant 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**

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

Furthermore each of Mr F Ling and Mr W Ling has undertaken:-

- (1) to resign from, and cease to hold, all directorships and senior management positions in the Company and its subsidiaries by no later than 28 days from the date of publication of this Statement of Disciplinary Action; and
- (2) not to take up any directorship or senior management positions in any listed issuer in Hong Kong in the future.

Mr F Ling and Mr W Ling had ceased directorship and senior management positions of the Company with effect from 1 May 2023 (as announced in the Company's announcement dated 1 May 2023). They also resigned as directors from all of the Company's subsidiaries on 30 April 2023.

#### **LISTING COMMITTEE'S FINDINGS OF BREACH**

The Listing Committee found as follows:-

##### The Company

- (1) The timing of events suggests that the Company's intention to enter into the Service Agreements had been formed prior to listing. In particular, negotiations of those agreements had already begun in early/ mid-March 2020.
- (2) Even if the intention to enter into those agreements occurred after the Memorandum/ Prospectus were issued, the Company ought to have disclosed the potential/ intended engagements to its sponsor. However, the Company failed to do so.
- (3) The Company failed to consult its Compliance Adviser before making the advance payments to LV Capital/ IBC BECL.
- (4) The service fees significantly impacted the Company's financial position after listing. If the service fee payments were from the IPO proceeds, this would constitute a change in use of the IPO proceeds. In any event, the payments resulted in a substantial deviation from the Company's profit forecast and from the position that it represented to the Exchange and disclosed to the investing public at listing.

- (5) The Company accordingly breached:-
- (a) Rules 2.13(2) and 11.07 in respect of its failure to disclose the potential engagements of LV Capital/ IBC BECL in the Memorandum and the Prospectus;
  - (b) Rule 3A.05 in respect of its failure to fully assist the sponsor to perform its due diligence work; and
  - (c) Rule 3A.23 in respect of its failure to consult its Compliance Adviser before making the advance payments to LV Capital/ IBC BECL.

#### The Relevant Directors

- (6) Mr F Ling and Mr W Ling neither sought professional advice nor consulted the Company's Compliance Adviser about the Rule implications of the Service Agreements. Even though the Service Agreements involved substantial commitments and payments, they did not discuss them with the other Directors. They kept the matter to themselves, and relied solely on their own personal judgement and experience. In so doing, they failed to identify the Rule implications arising from the Service Agreements.
- (7) By agreeing to make, and in fact making, full non-refundable payments under the Service Agreements, they put the Company in a very risky position, in which the Company would have limited recourse if the contemplated services were inadequate or not provided. They did not have a satisfactory explanation for the non-refundable prepayment provisions in the agreements.
- (8) Mr F Ling and Mr W Ling failed to (a) apply sufficient care, skill and diligence and (b) use their best endeavours, to procure the Company's Rule compliance and protect the Company's assets, in breach of Rule 3.08 and their Director's Undertakings. Their Rule breaches were serious and repeated.

**CONCLUSION**

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

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

Hong Kong, 5 October 2023