

STATEMENT OF DISCIPLINARY ACTION

Exchange's Disciplinary Action against My Heart Bodibra Group Limited (Stock Code: 8297) and Two Directors

SANCTIONS

The GEM Listing Committee of the Exchange (**GEM Listing Committee**)

CENSURES:

- (1) **My Heart Bodibra Group Limited** (Stock Code: 8297) (**Company**);
- (2) **Mr Chan Lin So Alan (Mr Chan)**, former executive director (**ED**) and chairman of the Company;
- (3) **Mr Yiu Koon Pong (Mr Yiu)**, former ED and chief executive officer of the Company;

AND STATES in the Exchange's opinion, by reason of Mr Chan and Mr Yiu's persistent failure to discharge their responsibilities under the GEM Listing Rules, had they remained in office, their retention of office would have been prejudicial to the interests of investors.

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SUMMARY OF FACTS**Directors' Loans**

The Company was listed on GEM on 13 July 2017. Prior to, and continuing after, the listing, the Company granted unwritten, unsecured, interest free and repayable on demand loans to Mr Chan and Mr Yiu. For the two-month period after listing, the Company had granted six loans to each of Mr Chan and Mr Yiu in an aggregate amount of \$10.123 million (**Directors' Loans**). As at 30 September 2017, a total of \$9.990 million remained outstanding. The loans plus interest (subsequently charged) were fully repaid by 9 November 2017.

Mr Chan and Mr Yiu gave instructions to the finance department of the Company to draw cheques or make bank transfers to themselves or third parties as they directed. The board of directors of the Company (**Board**) did not approve the Directors' Loans. They failed to follow the internal procedures of the Company for payment approval and for the carrying out of discloseable and connected transactions.

Details of the Directors' Loans were not announced by the Company until 20 April 2018 (nine months after the first drawdown following listing).

Employment Contracts

On 29 September 2017, Mr Yiu, on behalf of the Company's subsidiary, My Heart Lingerie Limited, entered into seven employment contracts with seven individuals (collectively, **Employment Contracts**). Three of the Employment Contracts were entered into with persons connected with Mr Yiu, one of whom being his wife and the other two relatives of his wife. The Employment Contracts were entered into without the knowledge and approval of the Board at the time.

Details and pertinent terms of the Employment Contracts were also not announced by the Company until 20 April 2018.

GEM LISTING RULE REQUIREMENTS

Rule 19.34 provides that a listed issuer must inform the Exchange and publish an announcement as soon as possible after the terms of a discloseable transaction have been finalised.

Rules 20.32, 20.33, 20.34, 20.37 and 20.44 in relation to connected transactions require a listed issuer to (1) enter into a written agreement, (2) announce the transaction, (3) seek shareholders' approval, (4) set up an independent board committee and appoint an independent financial adviser, and (5) issue a circular to its shareholders.

Rule 6A.23 requires a listed issuer during the Fixed Period (as defined in the Rules) to consult its compliance adviser in certain circumstances including where a notifiable or connected transaction is contemplated.

Rule 5.01 provides that the Exchange expects directors, both collectively and individually, 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. These duties include a duty to (1) act for a proper purpose (Rule 5.01(2)); (2) avoid actual and potential conflicts of interest and duty (Rule 5.01(4)); (3) disclose fully and fairly his/her interest in contracts with the issuer (Rule 5.01(5)); and (4) apply such degree of skill, care and diligence as may reasonably be expected of a person of his/her knowledge and experience and holding his/her office within the issuer (Rule 5.01(6)).

A director of a listed issuer is also under an obligation, pursuant to the Declarations and Undertakings with regard to Directors given to the Exchange in the form set out in Form A of Appendix 6 to the GEM Listing Rules (**Undertaking**), to comply to the best of his/her ability with the GEM Listing Rules and to use his/her best endeavours to procure the issuer's compliance with the GEM Listing Rules.

GEM LISTING COMMITTEE'S FINDINGS OF BREACH

The GEM Listing Committee found as follows:

- (1) The Company, as admitted, breached Rules 19.34, 20.32, 20.33, 20.34, 20.37 and 20.44 in respect of the Directors' Loans.
- (2) The Company subsequently engaged an external consultant to review its internal control systems and procedures, and has since implemented the recommendations made by the external consultant.
- (3) Mr Chan and Mr Yiu breached (i) Rules 5.01(2), (4), (5) and (6); and (ii) their Undertakings:

- (a) After the listing of the Company, both Mr Chan and Mr Yiu continued to treat the Company as their own by withdrawing funds for their personal use or as they directed to third parties unrelated to the Company. The loans were not made for the proper purposes of the Company, and they did not follow the Company's payment approval procedures.
 - (b) They placed themselves in a position of conflict by receiving the loans for their own use and did not disclose the loans or their interest in the loans to the Board at the relevant time.
 - (c) They were not familiar with the requirements of the GEM Listing Rules and did not contemplate that the Directors' Loans would constitute discloseable and/or connected transactions thereby attracting GEM Listing Rule implications. They did not consult the compliance adviser (Lego Corporate Finance Limited) within the Fixed Period as required under Rule 6A.23.
 - (d) In addition, as to Mr Yiu, the Employment Contracts were entered into for no discernible legitimate purpose. He was in a clear conflict of interest position with regard to three out of the seven employees and he failed to disclose his interests in those contracts to the Company or the Board. Mr Yiu also failed to follow the established procedures in place for the recruitment of staff within the Company.
 - (e) The GEM Listing Committee regarded Mr Chan's and Mr Yiu's breaches in this matter as serious and considered that they persistently failed to comply with their obligations under the GEM Listing Rules as a director with respect to the Directors' Loans.
- (4) Mr Chan was the compliance officer of the Company appointed under Rule 5.19 and was required, as a minimum, to advise and assist the Board in implementing procedures to ensure the Company complied with the Rules. Mr Chan admitted that "*that as a newly listed company, [his] awareness and sensitivity towards the GEM Listing Rules may not be sufficient*" and that "*there was a lack of sensitivity on [his] part in relation [to] the compliance issues relating to the [Directors'] Loans*". In view of this, Mr Chan also breached Rule 5.20.

CONCLUSION

The GEM 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, Mr Chan and Mr Yiu, and not to any other past or present members of the board of directors of the Company.

Hong Kong, 7 April 2021