

## STATEMENT OF DISCIPLINARY ACTION

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Exchange's Disciplinary Action against Dongyue Group Limited (Stock Code: 189) and ten directors

**The Exchange views the due performance of directors' duties seriously. Compliance with directors' duties is a focus of the Exchange's enforcement activities.**

**Directors of a listed issuer have clear duties to safeguard assets of the listed issuer (including its subsidiaries). They must ensure that proper and adequate internal controls are established and maintained. Failure to do so exposes the listed issuer to risks including possible misappropriation of assets by its staff, who might take advantage of the internal control deficiencies of the listed issuer.**

**Placing trust in senior members of staff is not a substitute to implementing proper and adequate internal controls which directors are obliged to establish and maintain within the listed issuer.**

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

### **CENSURES:**

(1) **Mr Zhang Jianhong (Mr Zhang)**, an executive director (**ED**) of the Company; and

### **CRITICISES:**

(2) **Mr Liu Chuanqi (Mr Liu)**, a former ED of the Company;

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for failing to perform their directors' duties as required in breach of Rule 3.08(f) of the the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (**Exchange Listing Rules**) and their obligations under the Declaration and undertaking (**Undertaking**) given to the Exchange in the form set out in Appendix 5B to the Exchange Listing Rules to comply to the best of their abilities with the Exchange Listing Rules;

### And the Listing (Disciplinary Review) Committee (Review Committee) on review

#### CRITICISES:

- (3) **Mr Liu Yi (Mr LiuY)**, a former independent non-executive director (**INED**) of the Company, for failing to perform their directors' duties as required in breach of Rule 3.08(f) of the Exchange Listing Rules and their obligations under the Undertaking to comply to the best of their abilities with the Exchange Listing Rules;

### And the Listing Appeals Committee on review

#### CENSURES:

- (4) **Mr Cui Tongzheng (Mr Cui)**, a former ED of the Company; and

#### CRITICISES:

- (5) **Mr Fu Kwan (Mr Fu)**, an ED of the Company;  
 (6) **Mr Zhang Jian (Mr ZhangJ)**, an ED of the Company;  
 (7) **Mr Wu Tao (Mr Wu)**, a former ED of the Company;  
 (8) **Mr Ting Leung Huel Stephen (Mr Ting)**, an INED of the Company;  
 (9) **Mr Yang Xiaoyong (Mr Yang)**, an INED of the Company; and  
 (10) **Mr Yue Run Dong (Mr Yue)**, a former INED of the Company;  
 ((1) to (10) collectively **Relevant Directors**),

for failing to perform their directors' duties as required in breach of Rule 3.08(f) of the Exchange Listing Rules and their obligations under the Undertaking to comply to the best of their abilities with the Exchange Listing Rules.

**The Listing Appeals Committee** further **CENSURES Mr Wu** for breaching his obligations under the Undertaking to cooperate in the investigation of the Listing Division (**Division**).

**The Listing Appeals Committee further CRITICISES:**

- (11) **DONGYUE GROUP LIMITED** (the **Company**, together with its subsidiaries, the **Group**) (Stock Code: 189) for failing to comply with various rules in Chapter 13 of the Exchange Listing Rules for the delayed publication of three sets of financial results and reports in 2015 and 2016.

**HEARINGS**

On 2 April 2019, the Committee conducted a hearing into the conduct of the Company and the Relevant Directors in relation to their obligations under the Exchange Listing Rules and the Undertaking.

On 30 August 2019, the Review Committee conducted a disciplinary review hearing on the application by Mr Fu, Mr ZhangJ, Mr Ting, Mr Yue, Mr Yang, Mr Cui, Mr Wu and Mr LiuY (collectively, **Appellant Directors**) and the Company, (together with the Appellant Directors, **Appellants**) for a review of the findings of breaches and the sanctions and directions imposed by the Committee at first instance (**Disciplinary (Review) Hearing**).

On 19 April 2021, the Listing Appeals Committee (**LAC**) conducted a further disciplinary (review) hearing on the applications by Mr Fu, Mr ZhangJ, Mr Ting, Mr Yue, Mr Yang, Mr Cui and Mr Wu (collectively, **LAC Appellant Directors**) and the Company (together with the LAC Appellant Directors, **LAC Appellants**) for a review of the decisions of and the sanctions imposed on them by the Committee as endorsed by the Review Committee. Mr LiuY did not apply for a review before the LAC.

**BACKGROUD FACTS**

The Company delayed the publication and despatch of three sets of financial results and reports (**Late Accounts**) as summarized in the table below (**Table**):

Financial results / report	Period end	Deadline for publication	Publication date	Delay (approx.)	Exchange Listing Rule breached
Annual results for the year ended 31 December 2015 <b>(FY2015 Results)</b>	Year ended 31 December 2015	31 March 2016	28 April 2017	13 months	13.49(1)
Annual report for the year ended 31 December 2015 <b>(FY2015 Report)</b>	Year ended 31 December 2015	30 April 2016	29 May 2017	13 months	13.46(2)(a)
Interim results for the 6 months ended 30 June 2016 <b>(1H2016 Results)</b>	6 months ended 30 June 2016	31 August 2016	18 May 2017	8.5 months	13.49(6)
Interim report for the 6 months ended 30 June 2016 <b>(1H2016 Report)</b>	6 months ended 30 June 2016	30 September 2016	16 June 2017	8.5 months	13.48(1)

Annual results for the year ended 31 December 2016 <b>(FY2016 Results)</b>	Year ended 31 December 2016	31 March 2017	31 May 2017	2 months	13.49(1)
Annual report for the year ended 31 December 2016 <b>(FY2016 Report)</b>	Year ended 31 December 2016	30 April 2017	16 June 2017	1.5 months	13.46(1)(a)

The Company published an announcement on 1 April 2016 regarding the delay in publication of FY2015 Results and the appointment of a professional firm (**Forensic Accountant**) to conduct a forensic review in relation to a suspected misappropriation incident (**Misappropriation Incident**) arising from certain alleged financial transactions (**Problematic Transactions**).

At the Company's request, trading of the Company's shares was suspended on 1 April 2016. Trading resumed on 1 June 2017.

### **Problematic Transactions**

The Company started to engage in bank-arranged entrustment loans in 2011 as there was idle cash in the form of bank's acceptance bills.

The Problematic Transactions consisted of:

- (a) Entrustment loans (with the use of cash or bank's acceptance bills) by two subsidiaries of the Company (**Two Subsidiaries**) to certain parties (**Parties**) through a bank in the PRC totaling RMB978.2 million entered into during the period from around the 4<sup>th</sup> quarter of 2013 to around the 1<sup>st</sup> quarter of 2015 (**Relevant Period**), as arranged by a senior staff member who was the then financial controller (**Financial Controller**) and head of the settlement centre of the Company; and

- (b) Two security deposits totaling RMB500 million used by the Two Subsidiaries as security for another bank in the PRC to lend the same amount of loans to two of the Parties in around December 2014.

The amount of RMB978.2 million under the entrustment loans remains due and has not been repaid by the Parties. The two security deposits totaling RMB500 million were forfeited due to the borrowers' default in repayment. The Company claimed that the Problematic Transactions formed part of the Company's wealth management business (**Wealth Management Business**) for which the Financial Controller was responsible.

The Company identified the Problematic Transactions in September 2015 through its internal audit (**Internal Audit**), which highlighted, among other things, that there were no mechanisms in place for anomaly detection and risk management to identify abnormality and control entrustment loans and wealth management risks.

The Company reported the Misappropriation Incident to the Public Security Authority in the PRC (**PSA**) in November 2015. According to the Company's disclosure in its announcements, the PSA arrested a number of people including the Financial Controller and two cashier officers (**Cashier Officers**) of the settlement centre of the Company, responsible persons of the Parties, and employees of certain PRC banks involved, and that the PSA has been taking criminal prosecutions against the various parties.

The Forensic Accountant completed the forensic review in September 2016. The findings, as disclosed by the Company in an announcement of 30 September 2016, highlighted, among other things, the following:

- (a) The Financial Controller and the Cashier Officers controlled the Company's treasury function such that the custody of the relevant finance and legal representative stamps, internet banking tokens, cheque books, password devices for cheques and accounting vouchers were reportedly under the control of the Cashier Officers;
- (b) The Financial Controller had full control of the implementation of the Wealth Management Business and that the Company's management was not involved in discussion, approval and execution of individual transactions. However, there was no documentary evidence that the Financial Controller had been specifically authorized to run the Wealth Management Business; and

- (c) The Financial Controller provided updates to his immediate supervisor Mr Cui, who was the then Chief Financial Officer (**CFO**) of the Company, on the status of the Wealth Management Business by emails. However, most of the Problematic Transactions did not appear in those emails.

The Company also appointed another professional firm (**IC Firm**) to undertake an internal control review. The IC Firm completed the internal control review in April 2017. The findings, as disclosed by the Company in an announcement of 30 April 2017, identified deficiencies in different areas including cash and treasury management. For example,

- (a) No limit was set on payment by cheque or via online banking of bank accounts.
- (b) There was no explicit requirement for recording the use and borrowing of seals; nor was there any record of use or borrowing of seals in practice.

#### **EXCHANGE'S LISTING RULE REQUIREMENTS**

The Exchange Listing Rule requirements in relation to financial reporting are as follows:

- (a) Rule 13.46(2)(a) – Distribution of annual report not more than 4 months after the corresponding financial year end;
- (b) Rule 13.48(1) – Distribution of interim report no later than 3 months after the corresponding period end;
- (c) Rule 13.49(1) – Publication of annual results no later than 3 months after the corresponding financial year end; and
- (d) Rule 13.49(6) – Publication of interim results no later than 2 months after the corresponding period end.

Under Rule 3.08, the board of directors of an issuer is collectively responsible for its management and operations, and the directors are collectively and individually responsible for ensuring its compliance with the Exchange Listing Rules. Rule 3.08(f) further requires every director must, in the performance of his duties as a director, 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.

A director of a listed issuer is under obligations, pursuant to his Undertaking, to comply to the best of his ability with the Exchange Listing Rules and to cooperate with the Division's investigation.

## **COMMITTEE'S FINDINGS OF BREACH AT FIRST INSTANCE**

The Committee considered the written and/or oral submissions of the Division, the Company and the Relevant Directors, and concluded as follows:

### **Breach by the Company**

The Committee found that by reason of the delays in the publication of the Late Accounts as shown in the Table above, the Company breached Rules 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) of the Exchange Listing Rules.

### **Internal controls**

The Company's internal controls were deficient during the Relevant Period in respect of the Wealth Management Business, giving rise to the Problematic Transactions which have been non-recoverable. The related internal controls were inadequate and ineffective in terms of governing the prior approval, execution, reporting and monitoring of and accounting for the transactions in relation to the Wealth Management Business (which included the Problematic Transactions) during the Relevant Period. Among other things:

- (a) Despite the fact that the Wealth Management Business had been conducted since 2011 and involved substantial amounts, the Company had not established specific internal control procedures covering the origination, payment and settlement arrangements in respect of such business.
- (b) In granting the Financial Controller and his team (which included at least the Cashier Officers) essentially a freehand in respect of the treasury function without adequate internal controls, the Company had permitted the Financial Controller to conduct the Problematic Transactions without proper authorization and monitoring by the Company.



- (c) There was no oversight, approval or authorization by the Company's board (**Board**) of the terms on which entrustment loans could be arranged by the Financial Controller. Whilst the Financial Controller might have been a long serving staff member and the Relevant Directors had trusted him to perform his duties, there was no reason why the necessary and effective checks and balances had not been in place concerning the Financial Controller's performance of his duties nor any requirements with respect to the monitoring thereof.
- (d) The Company had not identified any internal controls or guidelines governing the determination and approval of numerous sizeable transactions in particular those involving significant payments by the Company (including its subsidiaries) concerning entrustment loans.
- (e) In relation to the Wealth Management Business, since FY2011, the Company's annual results included a dedicated line item "Entrusted loans" showing the balance at the reporting period end (ranging from RMB370 million to RMB425 million). The annual results also included a line item of "Trade and other receivables" with much more significant amounts (ranging from RMB894 million to RMB1,906 million).
- (f) Two sets of financial reports were prepared by the Financial Controller:

#### Wealth Management Statistical Reports (**WM Reports**)

1. The WM Reports, reporting on the Wealth Management Business, were supplied only to Mr Cui, then ED and CFO of the Company. They (i) were supplied to Mr Cui on an ad hoc basis; and (ii) were each only a one-page table with brief information of each transaction: the name of the bank, the term, amount, interest rate, the users of the funds (borrowers) and the interval at which the interest was payable.
2. The WM Reports did not have information or document collated as to the consideration/assessment conducted which led to the decision of entering into the transactions. There was no evidence that any such information or documents were provided to Mr Cui and/or any other directors of the Company through any other means.

**Monthly Management Reports (Management Reports)**

1. They were prepared and circulated to the Board (all Relevant Directors) on a monthly basis. They did not contain dedicated reporting of the Wealth Management Business which constituted a significant part of the Company's current assets.
  2. They contained a number of line items regarding receivables namely, "bills receivables", "accounts receivables" and "other receivables", all of which showed substantial aggregate amounts. However, the Management Reports did not provide the breakdown (by reference to the nature of the transactions) of such substantial aggregate amounts, in particular, whether they included any wealth management transactions. The Management Reports did not contain meaningful and readily ascertainable information about the entrustment loans including, among other things, the amounts devoted to this activity and the identities of the borrowers/banks involved in the activity.
- (g) The WM Reports and Management Reports did not enable the Board's effective monitoring of the Wealth Management Business. As it transpired, whilst the annual results of the Company for the year ended 31 December 2014 (**FY2014 Results**) reported "Entrusted loans" of RMB370 million, this amount did not reflect or include existence of other entrustment loans totaling RMB978.2 million (which formed a part of the Problematic Transactions; and had been in existence at the year end of 2014). The Company subsequently believed that the RMB978.2 million entrusted loan had been included under the line item "Trade and other receivables" in the FY2014 Results. As a result, the much larger amount and scale of the entrustment loan activity was "masked" and was not clearly reported and reflected in the FY2014 Results.
- (h) There were issues raised regularly by the Company's external auditors in relation to the Wealth Management Business and/or cash management of the Company. These issues included, among other things, segregation controls in the settlement centre of the Company and controls for the Wealth Management Business to facilitate consideration of their recoverability. Adequate and effective controls should have been put in place or steps should have been properly taken to address these "red flags".
- (i) The Internal Audit (in September 2015), the Forensic Accountant (in September 2016) and the IC Firm (in April 2017) identified various internal control issues as mentioned above.

**Breach by the Relevant Directors**

The Committee agreed with the submissions of the Division and made the findings that:

- (a) Each of Mr Zhang, Mr Cui, Mr Wu, Mr Liu, Mr Fu, Mr ZhangJ, Mr Ting, Mr Yue, Mr Yang and Mr LiuY breached Rule 3.08(f) and the Undertaking to comply to the best of their abilities with the Exchange Listing Rules by failing to (i) ensure the Company had adequate internal controls in place; and (ii) properly perform their monitoring duties in respect of the Wealth Management Business.
- (b) As Mr Zhang and Mr Cui were more directly responsible for the failings in supervision of the Wealth Management Business, their breaches of Rule 3.08(f) and the Undertaking referred to at (a) above were more serious than those of the other Relevant Directors.
- (c) Mr Wu also breached the Undertaking to cooperate with the Division in its investigation.

***Relevant Directors' breach of Rule 3.08(f) – Internal control deficiencies and failure in monitoring duties***

The Relevant Directors breached Rule 3.08(f) by failing to ensure the Company had adequate and effective internal controls and perform their monitoring duties in relation to the Wealth Management Business:

- (a) Despite the fact that the Wealth Management Business involved substantial amounts, there had been no specific internal control procedures covering any of such business.
- (b) The Financial Controller had been given a freehand in respect of the treasury function which permitted him to conduct the Problematic Transactions without supervision, direction or proper authorization.
- (c) The Management Reports, which were provided to the Relevant Directors every month (except the ones for December 2014, January and February 2015 which were missing), did not show a separate item for the Wealth Management Business (transactions of which could be lumped under other receivables and/or other possible accounts). However there was no evidence that any of the Relevant Directors made any meaningful enquiries in relation to the Wealth Management Business. Nor did they seem to have attempted to change the level of detail provided in the Management Reports (for example the amounts involved and how the business had been performing).

- (d) The WM Reports were supplied to Mr Cui only and on an ad hoc basis.
- (e) The Management Reports did not appear to have been given to the Relevant Directors on a monthly basis. At least those for the months of December 2014, January and February 2015 appeared not to have been compiled or distributed. There was no evidence that any of the Relevant Directors raised any concerns or enquiries in relation to their non-receipt of the Management Reports for those months.
- (f) According to the Company and Mr Cui, there was no requirement for Mr Cui's review of the WM Reports in detail or for the Relevant Directors' detailed review of the Management Reports.
- (g) Since August 2013, the Company's external auditors had provided red flags in relation to the Wealth Management Business and/or cash management to the Company in their interim and annual review/audit of the Company's financial results. However, the Relevant Directors had not demonstrated that they had made any tangible effort to review the Company's processes or procedures in relation to the Wealth Management Business in the light of such recommendations or follow up as to how these red flags should be properly addressed or followed up on whether, and how the red flags had been addressed.
- (h) While the Company had an internal audit department responsible for performing internal audits and identifying potential risk areas for consideration of the senior management for the Group and the Board, the audit committee (**Audit Committee**) of the Company (with Mr Ting being chairman and Mr Yue, Mr Yang and Mr LiuY being members at the material times) had never met with members of the internal audit department to discuss their processes or any issues raised by them or any matters relating to the Wealth Management Business. Mr Ting, Mr Yue, Mr Yang and Mr LiuY failed to perform their Audit Committee's duties in relation to internal controls.

***Breach of Rule 3.08(f) by Mr Zhang and Mr Cui – more serious***

Mr Zhang

During the Relevant Period, Mr Zhang was also Chairman and Chief Executive Officer of the Company, and a director of the Two Subsidiaries.

Mr Zhang signed two wealth management framework agreements of 30 April 2013 and 2 January 2014. He denied having signed two further wealth management framework agreements of 24 February 2014 and 4 January 2015.

Mr Zhang (as an ED, Chairman and Chief Executive Officer of the Company) failed to take an active role or implement any measures or procedures to ensure that both Mr Cui and the Financial Controller had taken adequate steps in executing and monitoring the Wealth Management Business, despite Mr Zhang's signing of two wealth management framework agreements in April 2013 and January 2014 and his director role in the Two Subsidiaries.

#### Mr Cui

During the Relevant Period, Mr Cui was also the CFO of the Company.

Mr Cui submitted that he did not have an independent role to supervise the Financial Controller regarding the Wealth Management Business. He also cited that given the Financial Controller was very senior in position and had been a reliable employee, he reasonably expected that the Financial Controller would obtain the necessary approval for the conduct of the Wealth Management Business from Mr Zhang. According to Mr Cui, in April 2015, noting that there were deposits of RMB500 million with a bank and that the Company had no prior business with this bank, Mr Cui made enquiries with the Financial Controller who replied that the amounts were deposited as wealth management products. Mr Cui did not make further enquiries with the Financial Controller.

As CFO, Mr Cui failed in his supervision of the Financial Controller and failed in ensuring that there were any systems in place for the control or monitoring of the Wealth Management Business or how it should be accounted for in the Company's accounts. Further, his passive response and failure to make further enquiries when the Financial Controller informed him of the RMB500 million deposit with a bank clearly fell short of the standard required of Mr Cui as an ED and the CFO of the Company.

#### ***Relevant Directors' breach of the Undertaking***

By reason of their respective breaches of Rule 3.08(f), the Relevant Directors also breached their respective Undertaking.

***Mr Wu – breach of Undertaking to cooperate***

Mr Wu was a former ED of the Company from 21 March 2013 to 16 March 2015 and also a director of the Two Subsidiaries during the Relevant Period. In his Undertaking he undertook to the Exchange to cooperate in the investigation of the Division. However Mr Wu failed to respond to the Division's enquiry letter issued to his address of record (**Address**) notwithstanding various reminders from the Division.

Mr Wu breached his Undertaking to cooperate in the Division's investigation.

**REVIEW BY REVIEW COMMITTEE AND FINDINGS**

At the Disciplinary (Review) Hearing, the Review Committee upheld the findings of breaches of the Committee at first instance in respect of the Appellants. The Review Committee amongst other matters made the following supplementary findings of note:

- (a) The Appellant Directors' explanation on the differences between "entrusted loans" and "bank bill wealth management transactions", as well as the classification and labelling of the two categories, were noted at the Disciplinary (Review) Hearing. The Review Committee also took note that the Company was the victim of a fraud perpetrated on the Company by the Financial Controller. The Review Committee was however of the view that, despite the technical differences between the two categories of "entrusted loans" and "bank bill wealth management transactions", there remained the question of the lack of internal control to oversee the receivables of the Company and to supervise the Financial Controller.
- (b) The Company's external auditors, in the management proposals provided to the Company, raised issues regarding the use of cash and receivables. These included, among other things, the comment in the letter in March 2014 that the Company did not have special accountants to approve entrusted loans, bills and wealth management products and conduct follow-up actions and separate management, as well as the comment in the letter in March 2015 that the Company should make proper arrangements for the discounted disposal and endorsement of the account receivables, bill receivables, and for the maturity dates of the bill receivables entrusted to banks for management, and that the entrusted loans and bills took up a large amount of cash of the Company and might increase recoverability risk. The comments raised by the external auditors were not limited to entrusted loans but also other products.

**REVIEW BY THE LISTING APPEALS COMMITTEE AND FINDINGS**

The LAC Appellants applied for a further review to the Listing Appeals Committee of the decisions of and sanctions imposed on them by the Committee as endorsed by the Review Committee.

The Listing Appeals Committee, having considered the written and oral submissions made by the LAC Appellants and the Listing Division, determined to uphold the findings of breach and the sanctions and directions made by the Review Committee against the LAC Appellants, save that the Listing Appeals Committee considered that the Company should be issued with a public statement involving criticism (and not a public censure). The Listing Appeals Committee considered and made the following findings, among others:

***Company's delay in publication of financial results***

The Listing Appeals Committee noted that there had been a delay in publication of the relevant financial results of the Company and that this had been admitted by the Company. The Listing Appeals Committee considered that the wording of the relevant Rules of 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) to be clear and unambiguous with the same outlining steps that must be taken by a Company rather than might be taken. The Listing Appeals Committee concluded that the Company was in clear breach of the provisions.

The Listing Appeals Committee noted the Company had put forward arguments that it had legitimate reasons to delay the publication of its results. Having carefully considered the matters put forward by the Company including the overall difficulties/issues it faced which led to the delay in publication and related mitigating factors, the Listing Appeals Committee decided that the Company should be issued with a public statement involving criticism rather than a public censure.

***Breaches by the LAC Appellant Directors***

The Listing Appeals Committee was of the view that each of the LAC Appellant Directors had breached Rule 3.08(f) and their respective Undertaking to comply with the best of the abilities with the Exchange Listing Rules. The Listing Appeals Committee noted that the misappropriated amounts under the Problematic Transactions were very large and that a total of approximately RMB1.4 billion was taken from the Group and this was done over a period of approximately 1.5 years. The Listing Appeals Committee did not consider that it was appropriate for the LAC Appellant Directors to have relied on one individual, the Financial Controller, to the extent that they had done with respect to the Company's wealth management business. It was apparent to the Listing Appeals Committee that the LAC Appellant Directors had effectively allowed an environment to exist at the Company where the Financial Controller had been able to run the wealth management business without any appropriate controls and thereby misappropriate the

funds of the Company on a massive scale without this being brought to the knowledge of the LAC Appellant Directors.

It is a well-established principle under the Exchange Listing Rules that directors are all collectively and individually responsible for the implementation and maintenance of adequate internal controls. As part of this it was not appropriate for the LAC Appellant Directors to have relied on the Financial Controller. Yet Mr. Cui, the CFO of the Company, had admitted that the Financial Controller had managed the wealth management business on his own without supervision. The Listing Appeals Committee also took note that the LAC Appellant Directors who were INEDs had sat on the audit committee of the Company and were responsible thereunder for amongst other matters, the financial control and risk management systems of the Company.

The Listing Appeals Committee noted that the LAC Appellants had raised various arguments in an attempt to evade responsibility for the state of affairs at the Company with respect to the Problematic Transactions and sums lost thereunder. These included variously:- (i) that the Company and the LAC Appellant Directors had relied on Deloitte / other professionals, (ii) any issues identified were not relevant in relation to the Problematic Transactions, (iii) that the Financial Controller's fraud under the Problematic Transactions was so sophisticated and elaborate (involving so many parties) that no internal controls would have had an impact on the same, and, (iv) that in fact the relevant banks had failed to detect the fraud and let the Company down. The Listing Appeals Committee was not persuaded by these arguments and was of the view that: (i) internal controls were clearly inadequate for the wealth management business, (ii) that there had been failure by the LAC Appellant Directors to monitor or make appropriate enquiries regarding the wealth management business and the reporting procedures/lines thereon were clearly inadequate, (iii) Deloitte had identified relevant red flags which should have been properly addressed and followed up by the LAC Appellant Directors, and, (iv) the Appellant Directors' reliance on professional advisors did not relieve them of their primary and collective responsibility for internal controls and to apply independent thought and judgment concerning key issues affecting the Company such as the wealth management business and relevant internal controls.

#### ***Non-cooperation of Mr. Wu***

The Listing Appeals Committee noted that the Division's enquiry and reminder letters (3 in total) were sent to Mr Wu's residential address as confirmed by Mr Wu. Mr Wu argued that he had not personally received these letters due to various circumstances. However, even if this was the case it was noted that under Mr Wu's undertaking to the Exchange he is deemed to have received the letters sent to his address in any event. Mr Wu had asserted that it was incumbent upon the Division to prove he had received the various notices which had been sent to him. The Listing Appeals Committee did not agree with this suggestion. Overall, the Listing Appeals Committee



considered that there was sufficient evidence and material to satisfy it that Mr Wu had not been cooperative for a period as the Division asserted.

## **REGULATORY CONCERN**

The Committee, the Review Committee (with respect to Mr LiuY), and the LAC (with respect to the LAC Appellants), viewed the breaches in this case to be serious:

- (a) The Late Accounts contributed towards the period of trading suspension of 14 months.
- (b) The misappropriated amounts are substantial (a total of RMB1,478.2 million) and have not been recovered (with the whole amount already been written off in FY2015 Results published in 2017).
- (c) The Problematic Transactions had taken place for a prolonged period (during the Relevant Period, namely around the 4<sup>th</sup> quarter of 2013 to around the 1<sup>st</sup> quarter of 2015) and were only uncovered by the Internal Audit in around September 2015.
- (d) The case reveals the Company's significant internal control deficiencies in relation to the Wealth Management Business during the Relevant Period.
- (e) The case demonstrates the Relevant Directors' failure to implement proper and adequate internal controls to safeguard the Company's assets.

## **SANCTIONS**

Having made the findings of breach as stated above, and having concluded that the breaches are serious, the Committee, the Review Committee (with respect to Mr LiuY), and the LAC (with respect to the LAC Appellants), decided to:

- (a) criticise the Company for breaching Rules 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) of the Exchange Listing Rules;
- (b) censure each of Mr Zhang and Mr Cui for breaching Rule 3.08(f) and the Undertaking;
- (c) criticise each of Mr Wu, Mr Liu, Mr Fu, Mr ZhangJ, Mr Ting, Mr Yue, Mr Yang and Mr LiuY for breaching Rule 3.08(f) and the Undertaking;

- (d) censure Mr Wu for his breach of the Undertaking to cooperate in the Exchange's investigation.

The Committee, as endorsed by the Review Committee (with respect to Mr LiuY), and by the LAC (with respect to the LAC Appellants), further directed that:

1. each of Mr Zhang, Mr Fu, Mr ZhangJ, Mr Ting, Mr Yang to (i) attend 20 hours of training (**Training**) on Exchange Listing Rule compliance and director's duties, provided by institutions such as the Hong Kong Instituted of Chartered Secretaries, the Hong Kong Institute of Directors or other course providers approved by the Division, such Training to be completed within 90 days from the publication of this statement of disciplinary action; and (ii) provide the Division with the Training provider's written certification of full compliance within two weeks after Training completion;
2. as a pre-requisite of any future appointment as a director of any company listed/to be listed on the Exchange, each of Mr Cui, Mr Wu, Mr Liu, Mr Yue, and Mr LiuY, former directors of the Company who are currently not directors of any other company listed on the Exchange, (i) to attend the Training, to be completed before the effective date of any such appointment; and (ii) to provide the Division with the Training provider's written certification of full compliance;
3. the Company is to publish an announcement to confirm that the direction in paragraph (1) above has been fully complied with within two weeks after Training completion;
4. the Company is to submit a draft announcement referred to in paragraph (3) above for the Division's comment and may only publish the announcement after the Division has confirmed it has no further comment on it; and
5. following the publication of this statement of disciplinary action, any changes necessary and any administrative matters which may emerge in the management and operation of any of the directions set out in paragraphs (1) to (4) above are to be directed to the Division for consideration and approval. The Division should refer any matters of concern to the Committee for determination.

For the avoidance of doubt, the Exchange confirms that the sanctions and directions detailed in this statement of disciplinary action apply only to the Company and the Relevant Directors identified above and not to any other past or present board members of the Company.