

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)

Chapter 14A provisions are designed to safeguard and protect investors and shareholders, as they rely on information in the public domain to make their investment decisions. As such, the Exchange views the failure to comply with Chapter 14A provisions seriously.

While a single instance of non-compliance, when taken in isolation, may be minor in nature and does not warrant disciplinary action, repeated non-compliance by issuers suggest that (i) the appropriate regulatory message from previous instances of non-compliance have not been recognised; (ii) there are internal control deficiencies; and/or (iii) there are misunderstandings by the directors of Rule obligations, which need to be addressed by appropriate regulatory action.

This disciplinary action highlights the importance of directors having a full understanding of their obligations under the Exchange Listing Rules, in order to procure the Company's Rule compliance. Directors should participate in continuous professional development to develop and refresh their knowledge and skills, to ensure that their contribution to the board remains informed and relevant, and that breaches are not repeated in the future.

For the avoidance of doubt, the Stock Exchange of Hong Kong Limited ("**Exchange**") confirms that the sanctions and directions in this news release apply only to the Company, Mr Cao Jing San and the Relevant Directors (as defined below), and not to any other past or present members of the board of directors of the Company.

The Listing Committee of The Stock Exchange of Hong Kong Limited (the "Listing Committee")

CENSURES:

(1) Datang International Power Generation Co., Ltd. (the "Company") (Stock Code: 991)

for breaching Rules 14A.35, 14A.36, 14A.46 and 14A.49 of the *Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited* (the "**Exchange Listing Rules**") (and the corresponding provisions in the previous version of Chapter 14A of the Exchange Listing Rules in relation to breaches prior to 1 July 2014) for failing to comply with the reporting, announcement, circular and independent shareholders' approval requirements in respect of certain connected transactions;

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(For ease of reference, the above Exchange Listing Rules are referred to as Rules 14A.35, 14A.36, 14A.46 and 14A.49 respectively or collectively as the “**Chapter 14A Rules**”.)

FURTHER CENSURES:

- (2) **Mr Cao Jing Shan (“Mr Cao”)**, a former executive director (“**ED**”) of the Company

for breaching his obligation under Declaration and Undertaking with regard to Directors of an Issuer incorporated in the People’s Republic of China given to the Exchange in the form set out in Appendix 5H to the Exchange Listing Rules (the “**Undertaking**”) to cooperate in any investigation conducted by the Exchange and/or the Listing Committee;

AND CRITICISES:

- (3) **Mr Zhou Gang (“Mr Zhou”)**, a former ED of the Company; and

- (4) **Mr Hu Sheng Mu (“Mr Hu”)**, a former non-executive director (“**NED**”) of the Company

for breaching their obligations under the Undertaking for failing to use their best endeavours to procure the Company’s compliance with the Chapter 14A Rules.

(The directors identified at (3) and (4) above are collectively referred to as the “**Relevant Directors**”.)

SETTLEMENT AND HEARING

As a consequence of settlement, the Company and the Relevant Directors admit their respective breaches asserted by the Listing Department above and accept the sanctions and directions imposed on them by the Listing Committee as set out below.

On 17 January 2017, the Listing Committee conducted a hearing into the conduct of Mr Cao in relation to his obligations under the Undertaking.

FACTS

The Company is a sino-foreign joint stock limited company incorporated in the PRC. It was listed in Hong Kong in 1997 and is also listed in London and Shanghai. China Datang Corporation (“**CDC**”) is the controlling shareholder of the Company.

From 16 December 2013 to 28 September 2014, the Company entered into ten entrusted loan agreements with Inner Mongolia Datang International Renewable Energy Resource Development Company Limited (“**Renewable Resource Company**”). The aggregate amount of the ten entrusted loan agreements was RMB3,402 million (the “**Entrusted Loan Agreements**”).

Renewable Resource Company is a 40.35 per cent owned subsidiary of the Company. The other shareholders of Renewable Resource Company are Duolun Xinyuan Renewable Resource Company and Beijing Guoneng Zhixin Investment Co Ltd (“**Beijing Guoneng**”), holding 49 per cent and 10.65 per cent respectively.

In November 2013, CDC acquired 100 per cent of Beijing Guoneng (the “**Acquisition**”). As Beijing Guoneng’s interest in Renewable Resource Company exceeded 10 per cent, Renewable Resource Company became a connected subsidiary of the Company as a result of the Acquisition.

The Entrusted Loan Agreements exceeded the applicable percentage ratios and were subject to reporting, announcement, circular and shareholder approval requirements. The Company did not issue any announcement, circular or seek independent shareholders’ approval for the Entrusted Loan Agreements at the material time. No disclosure of the Entrusted Loan Agreements was made in the Company’s 2013 Annual Report.

The Relevant Directors and Mr Cao were aware of the Acquisition. However the Relevant Directors (Mr Cao did not respond to the Exchange’s enquiries) did not take steps to check that the Company’s Securities Department had also become aware of the Acquisition, so that the Company’s internal procedures for connected parties could be triggered. This resulted in the Company’s subsequent breaches of the Chapter 14A Rules when it entered into the Entrusted Loan Agreements.

The Company disclosed the Entrusted Loan Agreements in its announcement dated 30 October 2014 and admitted its breaches of the Chapter 14A Rules. The Entrusted Loan Agreements were ratified by the Company’s shareholders on 19 December 2014. The Company has a history of non-compliance with the provisions of the Chapter 14A Rules.

Chapter 14A Rule Requirements

As Renewable Resource Company was a connected subsidiary of the Company, the Entrusted Loan Agreements were subject to the following requirements:

- (a) Rule 14A.35 provides that a listed issuer must announce a connected transaction as soon as practicable after its terms have been agreed.
- (b) Rule 14A.36 and 14A.46 provide that a connected transaction must be conditional upon shareholders’ approval at a general meeting held by the listed issuer, and that a circular must be issued to shareholders for this purpose.
- (c) Rule 14A.49 provides that a listed issuer must disclose its connected transactions conducted during the financial year in its annual report.

The Relevant Directors were under an obligation, pursuant to their respective Undertakings, to comply to the best of their ability with the Exchange Listing Rules and to use their best endeavours to procure the Company’s Rule compliance.

LISTING COMMITTEE’S FINDINGS OF BREACH

On the basis of the facts and circumstances as set out above and with the Company and the Relevant Directors admitting the Listing Department’s assertion of breaches, the Listing Committee has the following findings:

Company's breaches

The Listing Committee noted that the Company admitted breaching the Chapter 14A Rules and found that the Company did breach these Rules by failing to comply with the reporting, announcement, circular and independent shareholders' approval requirements in respect of the Entrusted Loan Agreements.

Breach of Undertakings by Mr Hu and Mr Zhou

The Listing Committee concluded that Mr Hu and Mr Zhou breached their respective Undertakings for failing to use their best endeavours to procure the Company's compliance with the Chapter 14A Rules:

- (a) Mr Hu held a position within CDC and was aware of the Acquisition. He failed to apply his mind to compliance with the Chapter 14A Rules at the time he became aware of the Acquisition.
- (b) Mr Zhou was notified about the Acquisition, but he failed to recognise that the Acquisition gave rise to connected party implications.
- (c) Mr Hu and Mr Zhou failed to refer the Acquisition to the relevant department of the Company to ensure that the Company's list of connected parties was updated.
- (d) Mr Hu and Mr Zhou failed to demonstrate that they used their best endeavours to ensure the Company's compliance with the Chapter 14A Rules.
- (e) Mr Hu and Mr Zhou have been on the board for all or most of the Company's previous cases of non-compliance.

Breach of Undertaking by Mr Cao

The Listing Committee concluded that Mr Cao breached his Undertaking for failing to cooperate in any investigation conducted by the Exchange and/or the Listing Committee as:

- (a) Mr Cao was an ED when the Acquisition and the first two Entrusted Loan Agreements took place. The Company has submitted that Mr Cao was notified about the Acquisition.
- (b) Mr Cao ceased to be a Director on 24 January 2014. The Listing Department has not received any notification from Mr Cao of any change to his last known address. The Listing Department is entitled to rely on the deemed service provision in Mr Cao's Undertaking.
- (c) Mr Cao failed to cooperate in the Listing Department's investigation by failing to respond to the Listing Department's correspondence.

REGULATORY CONCERN

The Listing Committee regards the breaches in this matter as serious:

- (1) Chapter 14A imposes clearly defined and unambiguous obligations on issuers, which are designed to safeguard and protect investors and shareholders, as they rely on information in the public domain to make their investment decisions;

- (2) the Company has a history of repeated non-compliance with the Chapter 14A Rules, and they have been notified by the Listing Department on previous occasions that further breaches of the Exchange Listing Rules may result in formal disciplinary action;
- (3) repeated non-compliance reveals a serious concern over the Company's corporate governance and the Relevant Directors' ability to procure the Company's compliance with the Chapter 14A Rules. While a single instance of non-compliance, when taken in isolation, may be minor in nature and does not warrant disciplinary action, repeated non-compliance by issuers suggest that (i) the appropriate regulatory message from previous instances of non-compliance have not been recognised; (ii) there are internal control deficiencies; and/or (iii) there are misunderstandings by the directors of the obligations under the Exchange Listing Rules, which need to be addressed by appropriate regulatory action. The facts of this case indicate that the appropriate regulatory messages from previous cases have not been recognised by the directors and/or there were misunderstandings by the Directors of obligations under the Exchange Listing Rules;
- (4) concern arose over the competence of the Relevant Directors to identify connected transactions; and
- (5) concern also arose over the lack of recent training by the Company's directors on compliance with the Exchange Listing Rules, which may have contributed to the Company's breaches. As set out in paragraph 6.5 of Appendix 14 to the Exchange Listing Rules (Corporate Governance Code and Corporate Governance Report), all directors should participate in continuous professional development to develop and refresh their knowledge and skills. This is to ensure that their contribution to the Board remains informed and relevant.

SANCTIONS

Having made the findings of breach stated above, and having concluded that the breaches are serious, the Listing Committee decides to:

- (1) censure the Company for its breach of Rules 14A.35, 14A.36, 14A.46 and 14A.49;
- (2) censure Mr Cao for a breach of his Undertaking; and
- (3) criticise Mr Zhou and Mr Hu for a breach of their respective Undertakings.

The Listing Committee further directs:

- (1) The Company to appoint, within two months from the publication of this news release, its legal advisers, Eversheds, as an independent adviser on compliance issues on an ongoing basis for consultation regarding compliance with the Exchange Listing Rules for two years.
- (2) The Company to procure all its directors to (a) attend 24 hours of training (the "**Training**") on Exchange Listing Rule compliance and directors' duties, including 4 hours of training on notifiable and connected transactions, to be provided by Eversheds, the legal advisers to the Company, such Training to be completed within 90 days from the publication of this news release; and (b) provide the Listing Department with a written confirmation of full compliance together with Eversheds' written confirmation of the details of the Training within two weeks after Training completion.

- (3) As a pre-requisite of any future appointment as a director of any company listed on the Exchange, Mr Hu and Mr Zhou, former directors of the Company, who are currently not directors of any other company listed on the Exchange, (a) to attend the Training, to be completed before the effective date of any such appointment; and (b) to provide the Listing Department with the training provider's written certification of full compliance.
- (4) Upon the conclusion of the current internal review being conducted by Ernst & Young (China) Advisory Limited ("EY"), the Company shall provide the Listing Department with a copy of the final report of EY setting out its findings and recommendations. The Company shall also engage EY to conduct a follow-up assessment in the next 12 months of the extent to which the Company has (a) strengthened its internal controls and procedures to ensure Exchange Listing Rule compliance, and (b) followed the recommendations made by EY in its current review.
- (5) The Company is to publish an announcement to confirm that the directions in paragraphs (1), (2) and (4) above have been fully complied with within two weeks after the respective fulfilment of each of those directions. The last announcement required to be published under this requirement is to include the confirmation that all directions in paragraphs (1), (2) and (4) have been complied with.
- (6) The Company is to submit drafts of the announcements referred to in paragraph (5) above for the Listing Department's comment and may only publish the announcements after the Listing Department has confirmed it has no further comment on them.
- (7) Following the publication of this news release, 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 (6) above are to be directed to the Listing Department for consideration and approval. The Listing Department should refer any matters of concern to the Listing Committee for determination.

Hong Kong, 28 February 2017