

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)

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Chapters 19 and 20 of the GLR are designed to safeguard and protect the interests of the issuer and its shareholders as a whole.

Primary responsibility for ensuring compliance with the GLR rests with the directors of the issuer. A director has responsibility to inform the Board of important information concerning the affairs of the issuer, particularly where such information triggers GLR compliance issues (such as notifiable and connected transactions). This disciplinary action highlights the directors' responsibility to give due prominence to compliance with the GLR, and the importance of keeping shareholders and the public fully informed of material factors which might affect their interests.

The Listing Committee of the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited ("GEM Listing Committee")

CENSURES:

Mr Mei Ping ("Mr P Mei"), former executive director, chairman of the Board and compliance officer of China Nonferrous Metals Company Limited (Stock Code: 8306) ("**Company**") at the material time for his breaches of:

- (a) director's duties under Rules 5.01(1) to (6) of the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited ("**GLR**");
- (b) his duties as the Company's compliance officer under GLR 5.20; and
- (c) his obligations under the Declaration and Undertaking with regard to Directors given to The Stock Exchange of Hong Kong Limited ("**Exchange**") in the form set out in Appendix 6A to the GLR ("**Undertaking**") for failing to comply to the best of his ability with the GLR and for failing to use best endeavours to procure the Company's GLR compliance.

The GEM Listing Committee directs publication of its view that in the Exchange's opinion, by reason of his willful and persistent failure to discharge his responsibilities under the GLR, had Mr P Mei remained in office, his retention of office would have been prejudicial to the interests of investors.

For the avoidance of doubt, the Exchange confirms that the above sanctions apply to Mr P Mei, and not to any other past or present members of the Board of Directors of the Company.

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SETTLEMENT

As a consequence of settlement, Mr P Mei admits his breaches of GLR and Undertaking asserted by the Department above and accepts the sanctions imposed on him by the GEM Listing Committee as set out below.

BACKGROUND

Mr P Mei was appointed as an executive director, chairman of the Board and compliance officer of the Company on 26 November 2010. His duties as director and chairman have been suspended since 22 January 2015. He resigned as the Company's compliance officer and executive director on 8 May 2015 and 22 June 2016 respectively.

In May and June 2014, Mr P Mei entered into various guarantees ("**Guarantees**") as legal representative of two wholly-owned subsidiaries of the Company ("**Two Subsidiaries**"), in relation to loans borrowed by Shenzhen City First Create Investment Limited ("**First Create**"). Mr P Mei did not inform the Board or obtain Board approval for the Guarantees.

Mr P Mei and his brother, Mr Mei Wei (substantial shareholder of the Company), were directors and substantial shareholders of First Create at the relevant time. First Create was a connected person of the Company.

The Guarantees were a major and connected transaction subject to the announcement, circular and independent shareholders' approval requirements under Chapters 19 and 20 of the GLR. By reason of Mr P Mei's failure to inform the Board about the Guarantees, the Board could not consider the matter and the Company did not comply with the relevant GLR at the time.

The Two Subsidiaries were included as defendants/respondents in three legal proceedings and various arbitration cases (collectively "**Proceedings**") in the Mainland China (as the case may be) by reason of First Create's default in repayment of the loans. The Company became aware of the Proceedings (hence, the Guarantees) at the end of December 2014 and an announcement was made on 22 January 2015 disclosing the Guarantees and the Proceedings.

According to Mr P Mei, he executed the Guarantees under duress and/or undue influence as he had been harassed by creditors of First Create. He knew about the Proceedings before the Company discovered the Proceedings. He chose not to inform the Board about the Guarantees and the Proceedings.

The Company's auditors issued a disclaimer of opinion on the Company's annual results for the year ended 31 December 2014 ("**2014 Annual Results**"), some of the reasons given in its auditor's report referred to the lack of records relating to the Guarantees and the Proceedings.

During the Listing Department's investigation, Mr P Mei admitted his breaches of GLR 5.01(1) to (6).

GLR requirements

Unless otherwise stated, references to specific GLR in this news release refer to the GLR in force in May and June 2014.

The Guarantees were subject to the announcement, circular and independent shareholders' approval requirements under GLR 19.34, 19.40, 19.41, 20.47, 20.48 and 20.49.

Rule 5.01 provides that the Exchange expects the directors 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, meaning that every director must, in the performance of his duties as a director:

- (1) act honestly in good faith in the interests of the company as a whole;
- (2) act for proper purpose;
- (3) be answerable to the issuer for the application or misapplication of its assets;
- (4) avoid actual and potential conflicts of interest and duty;
- (5) disclose fully and fairly his interests in contracts with the issuer; and
- (6) 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.

Specifically, under Rule 5.01(6), 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"*.

Pursuant to GLR 5.20, the compliance officer's responsibilities must include, at a minimum, advising on and assisting the Board of the issuer in implementing procedures to ensure that the issuer complies with the GLR.

Mr P Mei was also under an obligation, pursuant to the Undertaking, to comply to the best of his ability with the GLR and to use his best endeavours to procure the Company's compliance with the GLR.

THE GEM LISTING COMMITTEE'S FINDINGS OF BREACH

The GEM Listing Committee considered the written submissions of the Listing Department and Mr P Mei, and concluded as follows:

Breaches of GLR 5.01(1) to (6) by Mr P Mei

1. Mr P Mei has breached GLR 5.01(1) to (6):
 - (a) Mr P Mei failed to act in good faith in the best interest of the Company as a whole. The Guarantees did not confer any benefit to the Company and its subsidiaries (together "Group"), and its shareholders as a whole;
 - (b) he failed to procure any security from First Create for the Guarantees. The Guarantees put the Group in substantial credit risk and the Group was exposed to risk of default without any recourse to security in the event that First Create defaulted in repayment of the loans;
 - (c) Mr P Mei improperly exercised his powers as a director and was clearly in a conflicted position. He caused the Two Subsidiaries to enter into the Guarantees without: (i) ensuring that the Board had considered and approved the same; (ii) avoidance of conflict of interest and duty by declaring his interests in the Guarantees (given that he was a majority shareholder and director of First Create) and abstaining from voting at meetings that should have been called for the purposes of considering and approving the Guarantees; and (iii) conferring any benefit to the Company;
 - (d) he placed his personal interests (getting rid of the alleged harassment) before the Group's interests;
 - (e) by subjecting the Group to significant credit risk, and the Group has been using its resources to defend the Proceedings, which deprived the Group of funds otherwise available to it, Mr P Mei misapplied the Company's assets by procuring the entering into and execution of the Guarantees without proper authorisation/approval from the Board and independent shareholders, and without proper purpose;
 - (f) Mr P Mei's conduct fell below the reasonable expectations and requirements in exercising skill, care and diligence as a director of the Company under GLR 5.01(6). He did not inform or involve the Board in respect of the entering into and execution of the Guarantees. There is no evidence that he considered, or took steps to address, the GLR implications relating to the Guarantees at the time of execution or after the event;
 - (g) by reason of his failure to inform the Board of the Guarantees and the Proceedings in a timely manner, the Company did not have the opportunity to collate and keep any records relating the Guarantees and the Proceedings. The lack of such records contributed to the reasons why the auditors issued a disclaimer of opinion on the 2014 Annual Results; and

- (h) as executive director, chairman and compliance officer at the time, Mr P Mei failed to have proper regard to corporate governance, the need and importance to ensure that the Guarantees, and subsequently the Proceedings, were properly reported and considered by the Board, and to ensure the Company's GLR compliance.

Breach of GLR 5.20 by Mr P Mei

2. Pursuant to GLR 5.20, Mr P Mei, as compliance officer of the Company at the time, should have advised the Board in respect of the requirements of the GLR arising from the Guarantees. However, he failed to do so.

Breach of Undertaking by Mr P Mei

3. Mr P Mei has breached his Undertaking for failing to comply to the best ability with the GLR by virtue of his breaches of Rule 5.01(1) to (6), and 5.20 of the GLR and to use his best endeavours to procure the Company's compliance with the GLR.

Wilful and persistent failure to discharge responsibilities

4. Given his conduct, Mr P Mei willfully and persistently failed to discharge his responsibilities under the GLR, including his obligations to ensure and procure the Company's Rule compliance in respect of the Guarantees.
5. Mr P Mei's conduct gave rise to serious concern as to ability to perform the duties of the Company's director as required under the GLR. This in turn casts serious concern over Mr P Mei's suitability to be a director of a listed issuer on the Exchange.

REGULATORY CONCERN

The Committee regards the breaches in this matter serious:

- (1) the case reveals a serious concern over the competence of Mr P Mei, as executive director and compliance officer of the Company at the time, to ensure that (a) notifiable and connected transactions were identified and reported to the Board for Board approval; (b) the Proceedings were reported to the Board on a timely basis; (c) proper records about the Guarantees and the Proceedings were kept by the Company; and (d) the Company fully complied with the applicable GLR;
- (2) Mr P Mei's conduct led to the Company's inability to comply with the applicable GLR in respect of the Guarantees and subjecting the Group to significant credit risk without any recourse to security. It has also contributed to the reason why a disclaimer of opinion was given by the auditors on the 2014 Annual Results;

- (3) the Guarantees did not confer any benefit on the Company. They resulted in the Two Subsidiaries being pursued for substantial amounts of money in the Proceedings, and judgments were entered against the Two Subsidiaries under the First and Third Writs, and the Arbitration Cases (as the case may be). The Group has been using its resources to defend the Proceedings and therefore its interests have been prejudiced by having been deprived of the use of funds which would otherwise have been available to the Group; and
- (4) the Hong Kong securities market is disclosure-based. Investors and shareholders rely on information in the public domain to make their investment decisions. Investors rely on information in the announcements to assess the investment risks in making investment decisions. Mr P Mei's conduct has undermined the integrity of the Company, as well as its obligation to keep its shareholder and public fully informed of important information and developments about the Company (in this case, the Guarantees and the Proceedings), which may affect their assessment of the Company. The shareholders were also deprived of their right to vote on the Guarantees.

SANCTIONS

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

- (1) censures Mr P Mei for his breaches of GLR 5.01(1) to (6), and GLR 5.20, and his Undertaking; and
- (2) states that, in the Exchange's opinion, by reason of his wilful and persistent failure to discharge his responsibilities under the GLR, had Mr P Mei remained in office, his retention of office would have been prejudicial to the interests of investors.

The GEM Listing Committee further states that in the event that Mr P Mei should wish to become a director of any issuer listed on the Exchange in the future, his conduct in this matter will be taken into account in assessing his suitability.