



## **THE STOCK EXCHANGE OF HONG KONG LIMITED**

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)  
(the "Exchange")

9 July 2009

**The Listing Committee of The Stock Exchange of Hong Kong Limited (the "Listing Committee") criticises the following parties for breaching the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the "Exchange Listing Rules"):**

- 1. China Solar Energy Holdings Limited (the "Company") (Stock code: 155);**
- 2. Dr Zoltan J. Kiss ("Dr Kiss"), the former Chairman and a former non-executive director of the Company resigned effective 27 August 2007;**
- 3. Mr Chu Chik Ming Jack ("Mr Chu"), a former executive director of the Company resigned effective 22 December 2008;**
- 4. Mr Chan Wai Kwong Peter ("Mr Chan"), an executive director of the Company;**
- 5. Mr Pierre Seligman ("Mr Seligman"), an executive director of the Company;**
- 6. Mr Chow Siu Ngor ("Mr Chow"), a former independent non-executive director of the Company resigned effective 23 September 2008;**
- 7. Mr Tam Kam Biu William ("Mr Tam"), an independent non-executive director of the Company; and**
- 8. Mr Yin Tat Man ("Mr Yin"), an independent non-executive director of the Company.**

Dr Kiss, Mr Chu, Mr Chan, Mr Seligman, Mr Chow, Mr Tam and Mr Yin are collectively referred to as the "Relevant Directors".

### **Facts**

#### The Transactions

On 27 April 2007, Terra Solar Global, Inc. ("TSG") and Terra Solar North America, Inc. ("TSNA"), 51 per cent-owned subsidiaries of the Company, entered into agreements with Dr Kiss and his associates which involve the sale of assets and operations by TSG and TSNA of their photovoltaic business in the US (the "Transactions").

By an announcement dated 6 November 2007, the Company disclosed that the Transactions constituted a very substantial disposal and a connected transaction under the Exchange Listing Rules (<http://www.hkexnews.hk/listedco/listconews/sehk/20071106/LTN20071106278.pdf>).

The Company should comply with the reporting, announcement and independent shareholders' approval requirements in respect of the Transactions under Rules 14.34, 14A.47, 14A.45 and 14A.52. The Company must also request a short suspension of trading in its shares pending the publication of the relevant announcement under Rule 14.37.

#### The Company's breaches

The Company breached:

- (i) Rules 14.34 and 14A.47 in failing to comply with the announcement requirement in a timely manner. The terms of the Transactions have been agreed or finalised by 27 April 2007, but the Company only notified and submitted the draft Announcement to the Exchange on 31 October 2007, with a delay of approximately six months and four days;
- (ii) Rule 14.37 in failing to request a trading suspension after the relevant agreements were signed and before the publication of the Announcement. It was only on 2 November 2007, i.e. approximately six months and six days after the Transactions were entered into, that the Company sought a trading suspension of its Shares;
- (iii) Rule 14A.52 in failing to make the Transactions conditional upon independent shareholders' approval at the time when the relevant agreements were entered into. It was only on 26 October 2007 that a supplemental agreement was executed so that completion of the Transactions became conditional upon independent shareholders' approval; and
- (iv) Rule 14A.45 in failing to include all requisite details of the Transactions in its annual report for the year ended 31 March 2008.

#### The Relevant Directors' breach of Undertaking to the Exchange

Dr Kiss (representing himself and his associates) and Mr Chu (representing TSG and TSNA) were directly involved in the negotiation of the Transactions and execution of the relevant agreements on 27 April 2007. However, they did not inform the other directors in Hong Kong about the Transactions and they did nothing to procure the Company's compliance with the relevant Listing Rule requirements. They were primarily responsible for the breaches of Rules 14.34, 14.37 and 14A.47 and in particular the failure to obtain prior independent shareholders' approval for the Transactions as required under Rule 14A.52.

Mr Chu, Mr Chan, Mr Seligman, Mr Chow, Mr Tam and Mr Yin were informed by the Company's auditors of the Transactions in late July 2007 and that they might amount to a very substantial disposal and a connected transaction. However, they did not immediately take steps to notify the Exchange of the Transactions. During the Exchange's investigation of a complaint about the Company's failure to disclose and after follow-up by the Exchange, the Company eventually submitted a draft Announcement to the Exchange on 31 October 2007, followed by a request for trading suspension on 2 November 2007.

In the circumstances, Mr Chu, Mr Chan, Mr Seligman, Mr Chow, Mr Tam and Mr Yin failed to procure the Company's compliance with Rules 14.34, 14.37 and 14A.47 in a timely manner, resulting in a further three-month delay before shareholders and the investing public were informed of the Transactions. They also failed to ensure that requisite details of the Transactions were included in the 2008 annual report in compliance with Rule 14A.45.

The Exchange is of the view on the basis of the submissions received that each of the Relevant Directors has failed to ensure that the Company establish and maintain an adequate and effective internal control system by which compliance with the Listing Rules can be procured.

The Exchange acknowledges that Mr Chow, Mr Tam and Mr Yin were independent non-executive directors of the Company and did not have day-to-day management of the Company. However, they were collectively responsible for the Company's Listing Rule compliance and they also bore some responsibility for the breaches. They have also failed to ensure that management had discharged its duty to have an effective internal control system which was required of them as members of the Audit Committee.

### **Settlement**

As a consequence of a settlement,

1. the Company does not contest that it was in breach of Rules 14.34, 14.37, 14A.45, 14A.47 and 14A.52 of the Exchange Listing Rules;
2. the Relevant Directors do not contest that they were in breach of their Undertaking to use their best endeavours to procure the Company's compliance with the Exchange Listing Rules; and
3. the Company and the Relevant Directors accept the sanctions imposed upon them by the Listing Committee which are referred to below.

### **Sanction**

Accordingly, against the facts and circumstances outlined above, the Exchange criticises:

1. the Company for its breaches of Exchange Listing Rules 14.34, 14.37, 14A.45, 14A.47 and 14A.52; and
2. the Relevant Directors for breaching their Undertaking.

For the avoidance of doubt, the Exchange confirms that this public statement which involves criticism applies only to the Company and to the Relevant Directors named above, and not to any other past or present member of the Company's Board of Directors.

The Exchange further directs that:

1. the Company retain an independent professional adviser satisfactory to the Committee and/or the Division (the “Adviser”) to conduct a thorough review of and make recommendations to improve the Company’s internal controls and provide the Division with the Adviser’s written report within two months of the publication of the Press Release;
2. the Company furnish the Division with the Adviser’s written report on the Company’s full implementation of the Adviser’s recommendations, if any, and a detailed terms of reference of the Audit Committee which complies with Code Provision C.3.3 of the Code on Corporate Governance Practices at Appendix 14 to the Exchange Listing Rules within a further period of two months;
3. the Company appoint a Compliance Adviser satisfactory to the Committee and/or the Division on an ongoing basis for consultation on compliance with the Listing Rules for a period of one year from the date of publication of the Press Release. The Compliance Adviser shall be accountable to the Company’s Audit Committee. If the Company is in breach of the Listing Rules again within a year after publication of the Press Release, the Division shall have the option of directing that the Company extend the appointment for another year;
4. Mr Seligman, Mr Chan, Mr Yin, Mr Tam and Mr Chow undergo 24 hours of training on Listing Rule compliance and directors’ duties to be given by the HKIoD, HKICS or any other recognised professional organisation satisfactory to the Committee and/or the Division within six months from the publication of the Press Release. The Company is to provide the Division with the training provider’s written certification of full compliance with this training requirement by each of these Directors within two weeks after full compliance with this requirement;
5. Dr Kiss and Mr Chu must, as a prerequisite of any future appointment of them as directors of any company listed on the Exchange, first undergo a minimum of 24 hours of training on Listing Rule compliance and directors’ duties as may be appropriate for a person with no knowledge of the Listing Rules. Such training shall be provided by HKIoD, HKICS or any other recognised professional organisation satisfactory to the Division; and
6. the Company publish an announcement to confirm that each of the directions set out in item nos. 1 to 4 above has been fully complied with, immediately after the respective fulfillment of those directions. The announcements must contain details of the respective appointment of the Adviser and the Compliance Adviser and the courses and seminars underwent by the Relevant Directors.