

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)

This case involves a public statement that, had the relevant former director remained in office, his retention of office would have been prejudicial to the interests of investors.

This decision emphasises the importance of directors' strict compliance with securities dealing restrictions within the Exchange Listing Rules. This is of fundamental importance to the integrity and confidence in the governance of listed issuers and the securities market in Hong Kong.

Directors should be reminded that whilst a specific function may be delegated to a staff member, the ultimate responsibility for performance of that function cannot, and still rests with them. Directors are obliged to consider the Exchange Listing Rule implications, adequately supervise the performance of the delegated function, and apply their minds to Exchange Listing Rule compliance.

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

CENSURES:

Mr Hu Guo An ("Mr Hu"), former executive director ("ED") of Future Bright Mining Holdings Limited ("**Company**") (Stock Code: 2212) for his breaches of Rules A.3 and B.8 of Appendix 10 to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited ("**Exchange Listing Rules**") and his obligations under the Declaration and Undertaking with regard to Directors given to the Exchange in the form set out at Appendix 5B to the Exchange Listing Rules ("**Undertaking**") by failing to comply with the Exchange Listing Rules to the best of his ability.

The Listing Committee further

STATES that, in the Exchange's opinion, by reason of his wilful and persistent failure to discharge his responsibilities under the Exchange Listing Rules, had Mr Hu remained in office, his retention of office would have been prejudicial to the interests of investors.

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For the avoidance of doubt, the Exchange confirms that the sanctions and direction in this news release apply only to Mr Hu, and not to the Company or any other past or present members of the board of directors of the Company.

HEARING

On 5 November 2019, the Listing Committee conducted a hearing into Mr Hu's conduct in relation to his obligations under the Exchange Listing Rules and the Undertaking.

EXCHANGE LISTING RULE REQUIREMENTS

Rule A.3 of Appendix 10 to the Exchange Listing Rules ("**Model Code**") provides, among other matters, that a director must not deal in any securities of the listed issuer on any day on which its financial results are published and during the period of 60 days immediately preceding the publication date of the annual results ("**Blackout Period**").

Rule B.8 of the Model Code provides that a director must not deal in any securities of the issuer without first notifying in writing the chairman or a designated director and receiving a dated written acknowledgement.

Pursuant to the Undertaking, Mr Hu was under an obligation to comply with the Exchange Listing Rules to the best of his ability.

FACTS

The Company announced its financial results for the year ended 31 December 2017 ("**2017 Results**") on 28 March 2018. The Blackout Period was therefore from 22 January 2018 to 28 March 2018.

Mr Hu, via his secretary on his behalf, purchased a total of 26,140,000 shares and disposed of 800,000 shares in the Company on 30 occasions (collectively, "**Dealings**") between 7 December 2017 and 27 February 2018 ("**Relevant Period**") without first obtaining written acknowledgements from the Chairman / a designated director of the Company as required under Rule B.8 of the Model Code ("**Acknowledgments**"). Nine of the Dealings took place during the Blackout Period for the 2017 Results.

Mr Hu's position is that the Dealings were caused by his negligence in giving a general power to his secretary to deal in the Company's shares on his behalf ("**General Power**").

FINDINGS OF BREACH BY THE LISTING COMMITTEE

The Listing Committee, having considered the written and/or oral submissions of the Listing Department and Mr Hu, concluded as follows:

The Listing Committee noted Mr Hu's admission of breaches of Rules A.3 and B.8 of the Model Code and the Undertaking, and found that he did breach these Rules and the Undertaking:

(i) Breaches of Rules A.3 and B.8 of the Model Code

The Dealings were conducted during the Relevant Period without first obtaining Acknowledgments, nine of which took place during the Blackout Period for the 2017 Results. Accordingly, Mr Hu breached Rule B.8 of the Model Code in respect of each of the Dealings and Rule A.3 of the Model Code in respect of the nine of the Dealings which took place during the Blackout Period for the 2017 Results.

(ii) Breach of Undertaking

Mr Hu failed to comply with the Exchange Listing Rules to the best of his ability:

- (a) Despite receiving a notification and reminder from the Company Secretary of the Company on 19 January 2018 of the Blackout Period for the 2017 Results and the relevant trading prohibitions under the Model Code, Mr Hu continued to deal in the Company's shares in breach of the Model Code.
- (b) Mr Hu simply delegated the General Power to his secretary without any supervision or training on Model Code compliance. He did not inform his secretary in advance of the commencement of the Blackout Period for the 2017 Results.
- (c) Mr Hu claimed that the "*Manual and Directions*" which were given to him after he joined the Company was in English and therefore he did not understand them. However, they were in fact in Chinese. Even if an English version was provided to Mr Hu, he could and should have asked for a Chinese version to familiarise himself with the Model Code requirements.
- (d) According to Mr Hu, he could not recall or did not know the relevant Model Code requirements, and did not fully understand the rationale behind the Model Code due to his education level and busy business schedule. However, he did not take steps to understand and familiarise himself with the Model Code requirements. Having a busy schedule does not justify non-compliance with the Exchange Listing Rules.

- (e) Although the Company informed Mr Hu on 23 February 2018 about his possible breaches of the Model Code, Mr Hu did not take steps to stop his secretary from exercising the General Power without complying with the Model Code (there was one dealing on 27 February 2018, ie within the Blackout Period for the 2017 Results).

The Listing Committee further found that, in view of Mr Hu's conduct set out above, his failure to discharge his responsibilities under the Exchange Listing Rules was wilful and persistent.

REGULATORY CONCERN

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

- (a) The requirements governing directors' securities dealings is designed to remove or mitigate any suspicion of abuse by directors of listed companies of inside information that they may have or be thought to have, especially during periods immediately before publication of financial results. Directors' strict compliance with the securities dealing requirements under the Model Code is of fundamental importance to the integrity and confidence in the governance of individual listed issuers and the wider securities market in Hong Kong.
- (b) The Exchange views the strict compliance with the securities dealing requirements seriously. Directors must exercise due care in conducting and authorising securities dealings.
- (c) The Dealings spanned over the Relevant Period and involved 30 Dealings. The seriousness of Mr Hu's breaches in this case is aggravated by his repeated failures to comply with the securities dealing restrictions and requirements.
- (d) A specific function may be delegated to a staff member, but not the ultimate responsibility for performance of that function. Mr Hu was obliged to consider the Exchange Listing Rule implications, adequately supervise the performance of the delegated function, and apply his mind to Exchange Listing Rule compliance. Mr Hu has not demonstrated that he had taken any steps to ensure compliance with the Model Code.

SANCTION AND DIRECTIONS

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

- (1) censure Mr Hu for his breaches of Rules A.3 and B.8 of the Model Code and the Undertaking.

The Listing Committee further:

- (1) directed Mr Hu to (a) undergo eight hours of training on directors' duties, corporate governance, and the Model Code, to be provided by institutions such as the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Directors or other course providers approved by the Department ("**Training**"), to be completed within six months from the publication of this news release; and (b) provide the Department with the Training provider's written certification of full compliance within two weeks after completion of Training; and
- (2) made a public statement that, in the Exchange's opinion, by reason of Mr Hu's wilful and persistent failure to discharge his responsibilities under the Exchange Listing Rules, had Mr Hu remained in office, his retention of office would have been prejudicial to the interests of investors.

Hong Kong, 30 December 2019