

Listing Requirements Enforcement In Focus

Misleading Statements –

Material deviation of the figures reported between the announced unaudited financial figures and audited financial figures for the same financial period by the listed company
/Inaccurate financial statements

Paragraph / Rule 9.16 of the LR requires a listed company to ensure that each announcement made by the listed company is, amongst others, factual, clear, unambiguous, accurate, succinct and contains sufficient information to enable investors to make informed investment decisions.

CASE 1 – INACCURACY DUE TO UNAVAILABILITY OF ACCOUNTING RECORDS

Relevant Facts

Deviation from an unaudited profit after tax of RM13 million which Company CM announced via its quarterly results to an audited loss after tax of RM196 million in the company's annual audited accounts for the financial year ended 31 March 2005. This resulted in the company triggering one of the criteria as a PN17 Company (financial condition). The material deviation was substantially due to wrong figures used arising from unavailability of accounting records which were destroyed in a fire incident in the company.

Enforcement Decision

- (i) Company – **public reprimand**; and
- (ii) Directors –In addition to **public reprimand** against each of the director, fines were imposed as follow:-
 - (a) **RM100,000 was imposed against the executive chairman cum chief executive officer** who was in charge of the financial management of the company;
 - (b) **RM25,000 against each of the audit committee members** who were informed that the quarterly results were prepared based on management's estimates but had proceeded to recommend the approval of the quarterly results to the board of directors without disclosing in the said quarterly results that the information was premised on estimated figures; and
 - (c) No finding of breach against the other directors who were not informed that the figures used in the quarterly results were premised on estimated figures. In this regard, they had reasonably relied on the representations and recommendations of the audit committee members and the management in their approval of the quarterly results.

Listing Requirements Enforcement In Focus



CASE 2 – INACCURACY DUE TO ACCOUNTING ERRORS

Relevant Facts

Deviation from an unaudited loss after tax of RM5 million in the quarterly results of Company AP to an audited loss after tax of RM21 million in the company's annual audited accounts for the financial year ended 30 June 2007. This resulted in the company being classified as a PN17 Company. The deviation was primarily due to accounting errors.

Enforcement Decision

- (i) Company – **public reprimand**; and
- (ii) Directors – In addition to **public reprimand** against the directors, a fine of:-
 - (a) **RM50,000 was imposed against the executive chairman** who was primarily responsible for the financial management of the company; and
 - (b) **RM25,000 against the executive director** who was responsible for finance and administration of the company' and
 - (c) No finding of breach was made against the non-executive directors who were found to have exercised reasonable assessment as they had raised concerns and procured reasonable assurances from both the executive directors and management over certain items in the quarterly results including compliance with accounting standards and there was nothing to put them on notice of the accounting errors in the quarterly results.

More information on this case can be found in the Media Release dated 25 March 2008.

Listing Requirements Enforcement In Focus

CASES 3 & 4 – INACCURACY DUE TO NON-PROVISION OF DOUBTFUL DEBTS



Relevant Facts

In the case of Company ST, there was deviation from an unaudited loss after tax and minority interest of RM6 million in the quarterly results of Company ST to an audited loss after taxation and minority interest of RM10.8 million when Company ST issued its annual audited accounts subsequently. The deviation arose primarily due to allowance for doubtful debts of RM3.7 million in the annual audited accounts. There was no reasonable justification for failing to make ANY provision for doubtful debts in the quarterly results

particularly in view of the long outstanding trade debts of more than 18 months, the history of inability to collect and no repayment arrangement with the debtors to support the collectability of the debts when the quarterly results was prepared and submitted. In addition, prior to the finalisation and approval of the quarterly results, the directors were aware of the position of the external auditors of Company ST who had informed the directors prior to the issuance of the quarterly results the necessity of reviewing and providing for doubtful debts which have been outstanding for more than 18 months.



In another case of Company BK, the deviation was from an unaudited profit after tax and minority interest of RM17.137 million to an audited loss after taxation and minority interest of RM9.486 million which arose primarily due to provision for impairment losses on receivables. Notwithstanding that the company was notified by its external auditors to assess and justify the recoverability of the receivables which were long outstanding, there were significant delays / uncertainty in the repayments and one of its debtors had become a dormant company with negative shareholders' fund, Company BK had failed to make ANY provisions for impairment losses in the quarterly results.



Enforcement Decision

- (i) Company ST and Company BK – **public reprimand**;
- (ii) Directors of Company ST – In this regard, taking into consideration, amongst others, the amount of deviation:-
 - (a) **Public reprimands were imposed on the executive directors.** In addition, one of its executive directors (i.e. the managing director) who was the director primarily responsible for the financial management of the company was also **fined RM25,000**; and

Listing Requirements Enforcement In Focus

- (b) **Private reprimands were imposed against the non-executive directors who were also members of audit committee** after taking into consideration the fact that they had after the audit committee and board meeting requested the managing director to make the necessary provision for doubtful debts in the quarterly results if there was no proof that these debts can be collected but failed to monitor compliance of the request and had in fact allowed the release of the quarterly results without any provision being made for doubtful debts.
- (iii) Directors of Company BK were also **publicly reprimanded**.

In addition to the public reprimand, **a fine of RM50,000 was imposed on the managing director / chief executive officer** and **a fine of RM25,000 was imposed on the audit committee members** for their failure to undertake reasonable assessment and enquiries and had proceeded to approve the quarterly results without any provision for impairment losses of the receivables despite having specific knowledge of the above circumstances of the receivables and the request by the external auditors for the company to justify the recoverability of the same prior to the deliberation and approval of the quarterly results.

More information in respect of the enforcement action taken against Company BK can be found in the Media Release dated 4 September 2013.

CASE 5 – INACCURACY DUE TO NON-PROVISION OF CERTAIN ITEMS

Relevant Facts

Deviation from an unaudited loss after tax and minority interest of RM25 million in the quarterly results of Company GB to an audited loss after taxation and minority interest of RM49 million in the company's annual audited accounts for the financial year ended 30 June 2007. The deviation was mainly due to various adjustments which were made when the company issued its annual audited accounts arising from under provisioning of tax penalties and doubtful debts, non-provision for loss on disposal of land and impairment loss in the quarterly results. The directors were aware of the numerous and significant audit and accounting issues as these were highlighted by the external auditors during the audit committee and board meetings held on 28 August 2007 to discuss the quarterly results. In addition, the directors were notified by the external auditors that the audit and accounting issues could have material adjustments to the management accounts if not resolved satisfactorily and it was unlikely that these issues / matters will be cleared within the next few days. However, no further action was taken by the directors



Listing Requirements Enforcement In Focus

except to delegate the finalization and approval of the quarterly results to the managing director. The managing director did not resolve all the audit and accounting issues and having informed the board of the same, proceeded to issue the quarterly results on 30 August 2007.



Enforcement Decision

- (i). Company – **public reprimand**;
- (ii). Directors – **public reprimand on all the directors**. In addition, **a fine of RM50,000** was imposed on the managing director who was also the director primarily responsible for the financial management of the company. **A fine of RM25,000 was imposed on the Non-Executive Chairman and 3 members of the audit committee**, taking into consideration their role and responsibilities with regards to the preparation and finalisation of the financial statements. A newly appointed non-executive director who was also a member of the audit committee and had participated in the approval of the quarterly results was also imposed **a fine of RM10,000**.

More information on this case can be found in the Media Release dated 31 March 2009.



CASE 6 & 7 – INACCURACY DUE TO REVERSAL OF REVENUE



Relevant Facts

Company TB restated its audited financial year ended 31 December 2005 results from an audited profit after tax and minority interest of RM84 million to an audited loss after tax and minority interest of RM370 million. In addition, the company also reported a deviation in its financial year ended 31 December 2006 results from an unaudited profit after taxation and minority interest of RM158 million to an audited loss after taxation and minority interest of RM126 million. The restatement and deviation in the financial results were mainly due to reversal of about 33% of the reported revenue for services not rendered and reversal of approximately RM341 million purported purchases of property, plant and equipment which were not substantiated. The company's share price had decreased from RM13.10 (on the date the company announced its inability to submit the audited results for the financial year ended 31 December 2006) to RM4.64 (on the date the company announced and issued the restated audited results

Listing Requirements Enforcement In Focus

for the financial year ended 31 December 2005 and audited results for the financial year ended 31 December 2006) (i.e. a decrease of approximately 65% of the company's share price).

In another case of Company PCB, the deviation was from an unaudited loss after tax and minority interest of RM22.453 million to an audited loss after taxation and minority interest of RM86.496 million. In addition, Company PCB also restated its previous financial year results from an audited loss of RM16.128 million to RM21.692 million. The restatement and deviation in the financial results were mainly due to reversal of about RM89.8 million / 48% of the reported revenue in relation to certain irregular transactions undertaken by PCB Group with a group of customers / suppliers which also contributed approximately 63% of the total trade receivables of PCB Group. These transactions could not be substantiated and hence, the external auditors were unable to ascertain the veracity of these transactions. The irregularities of the transactions were also confirmed in the subsequent special audit report and the investigative audit report. Company PCB had triggered the prescribed criteria under PN17 arising from the adjustments which led to the company's negative shareholders' fund and disclaimer opinion of the external auditors in the audited accounts.

Enforcement Decision

- (i) Company TB and Company PCB – **public reprimand**

- (ii) Directors of Company TB – enforcement actions were taken against 4 of the company's directors in the light of their failure to detect and/or take the necessary steps to address the irregularities from the transactions that had been made / purported to be made by the company which had resulted in the contraventions of the LR, premised on the facts:-
 - (a) The chief executive officer and the executive director who were primarily responsible for the financial management of the company were **publicly reprimand and imposed a total fine of RM750,000 each**. Factors taken into account include the fact that they were also the signatories of the transactions/payments which were the subject matter of the audit concerns, their roles and responsibilities with regards to the financial management and day-to-day operations of the company and the materiality of the transactions. In addition, in relation to the deviation in the 2006 financial results, these directors were aware/informed that there were audit issues and seriousness of the same particularly their impact on the veracity of the company's quarterly results 2 weeks prior to the deadline for submission of the quarterly results.

Listing Requirements Enforcement In Focus

Notwithstanding this, they had failed/neglected to highlight the concerns to the board and take necessary steps to address and/or resolve the said audit issues.

- (b) **The audit committee was publicly reprimanded and imposed a total fine of RM150,000 each**, taking into account their role as audit committee members and the concerns raised by the external auditors to them which would have significant impact to the veracity of the company's quarterly results. Notwithstanding, they had proceeded to recommend to the board of directors the approval of the quarterly results for the financial year ended 31 December 2006 without highlighting the external auditors' concerns.

No enforcement action was taken against the other non-executive directors as they were unaware of the external auditor's concerns and had placed reasonable reliance on the 'checks' put in place with regards to the accuracy and integrity of the financial figures put forth before them. In addition, upon becoming aware of the issues/concerns, they immediately took reasonable steps including commissioning a special audit to resolve the audit issues and issuance of the financial statements.

More information on this case can be found in the Media Release dated 6 September 2010.

- (iii) A **public reprimand** was imposed on the Directors of Company PCB. In addition, fines were imposed against the 4 executive directors as follows:-
- (aa) **RM750,000** was imposed on the Deputy Executive Chairman and Managing Director respectively; and
- (bb) **RM150,000** was imposed on 2 other executive directors;

taking into consideration the nature, irregularities and magnitude / materiality of the transactions as well as their position, roles and responsibilities in the Company (including that they were also directors in the subsidiaries involved in these transactions) as well as their knowledge of and/or involvement in the transactions.

Other than the 4 executive directors, determination of breach was also made against the other directors who were all audit committee members, as they had failed to demonstrate reasonable efforts taken to discharge their duties particularly in light of the following failures:-

- to ensure proper maintenance and provision of documents and records vis-à-vis the transactions to facilitate the preparation of accurate and submission of timely financial statements;
- to detect the irregular transactions that have been made / purported to be made by the company particularly when the transactions were unusual / had peculiar characteristics and of such magnitude and

Listing Requirements Enforcement In Focus

to ascertain, address and/or resolve the audit issues vis-à-vis the transactions to ensure veracity of the transactions; and

- to ensure that there were proper and effective internal controls, risk management and compliance process established, maintained and implemented towards ensuring the integrity of the company's financial information and veracity of the transactions vis-à-vis compliance of the company's financial reporting obligations.

More information on this case can be found in the Media Release dated 15 September 2015.

CASES 8, 9 & 10 – INACCURACIES DUE TO FAILURE TO IMPAIR / WRITE DOWN

In 2013 & 2014, notable common issues giving rise to enforcement in respect of issuance of inaccurate quarterly results involved failure to impair/write down assets such as the following:-

Relevant Facts

Company IK was **publicly reprimanded** for deviation from an unaudited profit after tax and minority interest of RM169,000 to an audited loss after taxation and minority interest of RM4.918 million. The deviation arose primarily due to provision for impairment in the value of an associate in the annual audited accounts which was not undertaken in the quarterly results. It was noted that, prior to the release of its quarterly results, Company IK had performed a valuation/assessment on the fair value of the investment in the associate which was clearly lower than its carrying value but failed to recognise impairment loss in its quarterly results in accordance with the accounting standard.

Enforcement Decision

All directors were **publicly reprimanded** taking into consideration that prior to the approval of the quarterly results, they had knowledge of the audit issues raised by the external auditors on the risk that the carrying value of the associate was not supported by the underlying value, the poor performance of the associate, the lower share of profit of the associate and the valuation which was lower than the cost. Notwithstanding this, the directors had merely accepted / relied on management's views without further enquiry / assessment on the reasonableness of non-impairment of the associate's value in the quarterly results vis-a-vis compliance with the accounting standard. **A fine of RM25,000 was imposed on all the members of the audit committee** (which included the Executive Chairman), taking into consideration their function / specific responsibility (including the Chairman who was not the

Listing Requirements Enforcement In Focus

director primarily responsible for financial management and preparation of financial statements) vis-à-vis review of financial statements.

More information on this case can be found in the Media Release dated 4 September 2013.



Relevant Facts

Company CB had reported a deviation from an unaudited profit after tax and minority interest of RM4.863 million to an audited loss after taxation and minority interest of RM92.48 million. The deviation was mainly due to provision for slow moving inventories and impairment of plant and equipment. The circumstances which gave rise to the adjustments were essentially due to the company's cash flow / funding constraints and/or lack of working capital resulting in uncertainties on the ability of the company to dispose its stocks within a reasonable time and for the plant to be put into operations into the near future. However, these circumstances were not "new" and had existed prior to the announcement of the quarterly results. The deviation had resulted in Company CB triggering the GN3 criteria and its holding company, Company HB reporting a deviation from an unaudited profit after tax and minority interest of RM17.416 million to an audited loss after tax and minority interest of RM53.952 million.



Enforcement Decision

Both Company CB and Company HB together with their directors were **publicly reprimanded** for the deviation. In addition, the directors of these companies were imposed with the following fines:-

- (i) **RM100,000 on the managing director and RM50,000 on the other directors who were members of the audit committee of Company CB; and**
- (ii) **RM50,000 on the managing director and RM25,000 on an executive director and the audit committee members of Company HB.**

In this regard, it was noted that:-

- Company HB and Company CB failed to provide reasonable explanation for their failure to make the relevant adjustments in their respective quarterly results particularly as there was no material change to the circumstances in respect of the quarterly and audited results.
- In respect of Company HB, its acceptance of its subsidiary's (Company CB) financials/position towards consolidation of its quarterly results without proper assessment of the veracity of the information is not

Listing Requirements Enforcement In Focus

acceptable. As a listed company, there is accountability by Company HB to its shareholders and investors with regards to the accuracy of its financial results.

- The penalties imposed against the directors were after taking into consideration the materiality of the deviation and their knowledge/awareness of the audit issues/concerns, the company's cash flow constraints and lack of working capital but failed to undertake reasonable assessment and enquiries in approving the accounts.

More information on this case can be found in the Media Release dated 5 March 2013.



Relevant Facts

Company SG reported a deviation from an unaudited loss after tax and minority interest of RM9.417 million to an audited loss after taxation and minority interest of RM35.703 million. The deviation was mainly due to write down/impairment of work over rigs and amount due from customer in respect of generator sets. These items were only taken up in the audited accounts due to the non-availability of valuation reports on the work over rigs/ generator sets for impairment assessment prior to the submission of the unaudited results. In this regard, notwithstanding that the external auditors had at least 1 month prior to the release of the unaudited results informed Company SG and its directors that they would require the valuation reports for purposes of impairment assessment, Company SG and its directors had failed to take reasonable steps to expedite the completion of the valuation reports and considered the same in its preparation and finalisation of the unaudited results. In addition, as the valuation reports were crucial towards the accuracy/veracity of the financial statements, in the light that the valuation reports were not completed and could not be taken into account in the unaudited annual results as well as the possibility that the results of the completed valuation reports might significantly impact the figures in the unaudited results, Company SG and its directors had also failed to ensure that appropriate disclosure was made of such circumstances (i.e. the pending valuation reports, implications of the same on the impairment assessment and the results/financial position of Company SG) in the unaudited results.



Enforcement Decision

- (i) Company: **Public Reprimand**

Listing Requirements Enforcement In Focus

- (ii) Directors: All directors were **publicly reprimanded permitting the company to make inaccurate financial reporting (i.e. unaudited results) to the market.** In addition, the following fines were imposed on them:
- (a) **RM50,000 each on the executive director** who was primarily responsible for the financial management of Company SG **and the managing director** who had overall supervision of company SG (including the executive director who reported to him). Both directors were aware of the external auditor's request for the valuation reports which would be relied upon by the auditors for impairment assessment prior to the issuance of the unaudited results. Notwithstanding this, they had proceeded to prepare, finalise, review and recommend to the board to approve and / or approve the unaudited results without the said valuation reports or disclose the pending valuation reports in the unaudited results; and
 - (b) **RM25,000 each on the audit committee members and an executive director (in charge of business development)** who prior to the issuance of the unaudited results were also aware of the external auditors' requirement for the valuation report for impairment assesment and that these reports remained outstanding but had nevertheless approved the unaudited results for issuance.

More information on this case can be found in the Media Release dated 28 February 2014.

CASE 11 – INACCURACIES DUE TO FINANCIAL IRREGULARITIES

Relevant Facts

Company SB had on 29 February 2012 announced the irregularities in its accounts where the external auditors had expressed concerns over the validity and recording of certain transactions and arising from the findings of the forensic accountant appointed by Company SB, there were major adjustments in the following balance sheets items reported in the fourth quarterly report for the financial year ended 31 October 2011 (QR 31 October 2011):-

	QR 31 October 2011 RM'000	Adjusted figure stated in forensic accounting review report (FARR) RM'000	Difference	
			RM'000	%
Property, plant and	169,311	99,861	(69,450)	-41%

Listing Requirements Enforcement In Focus

equipment				
Trade receivables	87,459	16,113	(71,346)	-82%
Intangible assets	36,730	0	(36,730)	-100%
Cash and bank balances	34,699	4,310	(30,389)	-88%
			(207,915)	

Arising from the various adjustments including the main adjustments above, Company SB's adjusted shareholders' fund as at 31 October 2011 was a negative shareholders' fund of RM42,220,000 based on the FARR as compared to a positive shareholders' fund of RM213,166,000 announced in the QR 31 October 2011 on 30 December 2011. Further, the veracity of the balance sheet items above resulted in a disclaimer opinion by the auditors in the audited accounts for FYE 31 October 2011 and led to Company SB triggering the PN17 criteria. The share price dropped by 49.4% from RM0.405 on 24 February 2012 to RM0.205 on 1 March 2012 after Company SB announced the irregularities in the company's accounts, the external auditors' disclaimer opinion and the First Announcement pursuant to PN17.



Enforcement Decision

- (i) Company: **Public Reprimand**
- (ii) Directors : Enforcement actions were taken against two of Company SB's directors. The two directors were **publicly reprimanded** and imposed with fines as follows:-
 - (a) **RM500,000 on the Executive Director** who was the director primarily responsible for the financial management of Company SB premised on evidence (including his admission) that he had 'dressed up' the company's accounts to make the results look good albeit, allegedly at the instruction of the managing director which was unsubstantiated and in any event did not absolve his culpability; and
 - (b) **RM500,000 on the Managing Director** who was responsible for the day-to-day operations and had /should have the knowledge of the financial affairs of the company, was in a position to detect and ascertain the irregularities including ensuring veracity of the impugned transactions / inaccurate figures set out in the QR 31 October 2011 particularly in the light of the magnitude and irregularities of the impugned transactions / figures. He could not abdicate his responsibilities and be absolved of his responsibilities by merely relying on the finance

Listing Requirements Enforcement In Focus

department, the audit committee, the auditors and such other persons to ensure that the company's accounts were accurate and in order without more.

No enforcement action were taken on the non executive directors in view that they did not have actual or constructive knowledge of the financial irregularities / or that the QR 31 October 2011 was inaccurate prior to its issuance taking into consideration their roles and responsibilities including that as opposed to the executive directors, the non-executive directors were not involved in the day to day operations and financial management of the company as well as the impugned transactions giving rise to the financial irregularities.

More information on this case can be found in the Media Release dated 28 February 2014.