

MEDIA NOTIFICATION

30 September 2022

BURSA MALAYSIA SECURITIES PUBLICLY REPRIMANDS AND FINES 6 DIRECTORS OF BREM HOLDING BERHAD

Bursa Malaysia Securities Berhad [Registration No.: 200301033577 (635998-W)] (Bursa Malaysia Securities) has publicly reprimanded and fined 6 directors of Brem Holding Berhad (BREM) for breaches of the Bursa Malaysia Securities Main Market Listing Requirements (Main LR) as follows:

Table 1

No.	Director	Penalty
1.	Tan Sri Dato' Khoo Chai Kaa Managing Director	Public Reprimand and Fine of RM200,000
2.	Khoo Chai Thiam Executive Director (Retired on 20 September 2018)	Public Reprimand and Fine of RM50,000
3.	Low Yew Hwa Executive Director (Appointed as Non-Independent Non-Executive Director on 24 August 1992 and re-designated to Executive Director on 23 July 2019)	Public Reprimand and Fine of RM50,000
4.	Wong Miow Song Independent Non-Executive Director Audit Committee Chairman	Public Reprimand and Fine of RM50,000
5.	Khoo Hui Keam Non-Independent Non-Executive Director	Public Reprimand and Fine of RM50,000
6.	Khoo Hui Giok Non-Independent Non-Executive Director Audit Committee Member	Public Reprimand and Fine of RM50,000

[Note: The Independent Non-Executive Chairman and Audit Committee member at the material time of the breach, Dato' Hj. Abu Sujak Bin Hj. Mahmud had passed away on 11 February 2021.]

The 6 directors had breached paragraph 8.23(2)(a)(i) read together with paragraphs 8.23(1)(a)(ii) & (iii) of the Main LR for failing to ensure that the payments/advances to or on behalf of GJH Prestige Sdn Bhd (GJHP) from 28 August 2014 to 22 August 2019 totalling RM26,463,650 (Advances) were fair and reasonable to the company and not to the detriment of the company and its shareholders.

The finding of breach and imposition of the above penalties on the directors of BREM were made pursuant to paragraph 16.19 (1)(b) of the Main LR upon completion of due process and after taking into consideration all facts and circumstances of the matter including the directors' roles, responsibilities, involvement, knowledge and/or approval of the Advances and the materiality/ impact of the breach to BREM and its shareholders/investors.

Bursa Malaysia Securities views the contravention seriously as the requirements under paragraph 8.23 of the Main LR were one of the key investor protection requirements which served to ensure proper preservation and employment of a company's assets/funds.

BACKGROUND

BREM had on 1 November 2014 acquired 49% shareholding in GJHP from GJH Holdings Sdn. Bhd. (GJHH). However, BREM had made the Advances to or on behalf of GJHP from 28 August 2014 to 22 August 2019 i.e. prior and subsequent to the acquisition of GJHP as an associate. The details of the Advances including repayment are as follows:

Table 2

No.	Date of payment	Amount advanced / (repaid) (RM)	Aggregate amount advanced (RM)	Materiality of the aggregate amount advanced over the Group's net tangible assets (NTA)*
1.	28 August 2014	2,499,000	14,217,750	3.23%
2.	8 September 2014	10,718,750		
3.	10 October 2014	1,000,000		
1 November 2014 - BREM acquired 49% in GJHP				
4.	6 November 2014	749,300	25,464,050	5.03%
5.	22 December 2014	300,000		
6.	7 September 2015	7,197,000		
7.	31 March 2017	3,000,000		
8.	31 August 2017	(1,600,000)	23,864,050	4.72%
9.	4 January 2019	499,800	24,363,850	4.61%
10.	22 August 2019	499,800	24,863,650	4.67%

* Based on the Group's NTA as at 31 March 2014, 31 March 2017, 31 March 2018 and 31 March 2019 respectively.

BREM and the directors had represented, amongst others, that:

- the Advances were BREM's capital contribution/investment into the 'equity' of GJHP for GJHP's investment in lands and the Advances totalling RM14,217,750 provided prior to 1 November 2014 were a pre-condition arrangement for the acquisition of GJHP pending completion of the share transfer;
- GJHP owned sufficient assets which could be realised to cover and repay the Advances and the Advances were fully secured or supported by the value and development potential of the lands; and
- BREM has a long and good working relationship with GJHH, GJHH was a reputable developer and contractor and the directors of GJHH were credible and known to BREM. It was an understanding by all shareholders of GJHP that the repayment of the Advances would be made once there was excess cash flow which depended on the selling of properties and the success of the property development in the future.

Notwithstanding the above representations, the 6 directors of BREM had failed to ensure that the Advances to GJHP were fair and reasonable to BREM and not to the detriment of the Company and its shareholders, particularly as:

- (a) The Board of Directors (BOD) had failed to undertake proper deliberation and reasonable care and diligence to make an informed assessment and decision on the Advances. There were no BOD meeting minutes, resolutions or papers documenting the BOD's deliberation, enquiry, assessment and approval of the pre-condition

arrangement and/or the Advances. Further, there was no evidence of proper due diligence, feasibility study or risk assessment undertaken on the proposed acquisition of GJHP.

- (b) There was no written agreement or documentation to formalise the arrangement/transaction between BREM and GJHP/GJHH and the Advances, including the refund and/or repayment of the Advances which was crucial to safeguard the interests of the company and its shareholders. This is also particularly in view of the materiality of the Advances as set out in Table 2 above and the Advances totalling RM14,217,750 provided prior to 1 November 2014 represented 102.7% of BREM's cash and bank balances of RM13,835,320 as at 31 March 2014.
- (c) There was also no proper documentation attesting the purpose and utilisation of the Advances and BREM's external auditors had highlighted that there was an internal control weakness where there was no documentation on the approval in relation to the rationale or basis for advances and further investments in BREM's associates and joint ventures.
- (d) GJHP had only repaid RM1.6 million to BREM on 31 August 2017 and the remaining Advances amounting to RM24,863,650 (which represented 4.67% of the Group's NTA as at 31 March 2019 and 4.3% of the Group's NTA as at 31 March 2021) remained unpaid, nearly 8 years after BREM had first provided the Advances on 28 August 2014. In this regard, there was no evidence of a concrete repayment plan of the Advances and any steps or efforts taken to recover the Advances and the BOD had merely accepted/acceded that the settlement of the Advances was neither planned nor likely to occur in the foreseeable future as disclosed in BREM's financial statements.

The BOD had totally relied on the Managing Director to ensure compliance of paragraph 8.23 of the Main LR and provided him with full authority not only to negotiate and finalise the terms and conditions of the acquisition of GJHP but also to make any payment to GJHP with no specific limit, based merely on the expectation/assumption that the Managing Director would safeguard the interest of BREM.

A higher penalty was imposed on the Managing Director as he was in a key position to ensure that the Advances complied with paragraph 8.23 of the Main LR in view of his primary role/involvement in the negotiations and acquisition of GJHP and authorization/approval of the disbursement of the Advances to GJHP. There was serious dereliction of duty by the Managing Director who not only failed to safeguard the interests of BREM and its shareholders as stated above, but also continued to approve the Advances until 22 August 2019 without assessment and consideration of the requirements under paragraph 8.23 of the Main LR, including proper escalation and deliberation by the BOD.

A breach of paragraph 8.23 of the Main LR warranted deterrent penalties of a public reprimand and fine to underline the serious view taken by Bursa Malaysia Securities on such a breach and remind directors on the proper discharge of their duties to ensure compliance of paragraph 8.23 of the Main LR.

Notwithstanding that BREM had been de-listed, the breaches by the directors were committed while the company was listed on the Official List of Bursa Malaysia Securities.

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About Bursa Malaysia

Bursa Malaysia is an exchange holding company incorporated in 1976 and listed in 2005 and has grown to be one of the largest bourses in ASEAN today. Bursa Malaysia operates and regulates a fully-integrated exchange offering a comprehensive range of exchange-related facilities, and is committed to *Creating Opportunities, Growing Value*. Learn more at www.bursamalaysia.com.

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ADDENDUM

- Paragraph 8.23(1) of the Main LR states that except as otherwise prohibited under the law or in relation to a foreign corporation, the relevant laws of the place of incorporation and subject to subparagraph (2), a listed issuer or its subsidiaries not listed on any stock exchange may only:-
 - (a) lend or advance any money; or
 - (b) guarantee, indemnify or provide collateral for a debt, (“provision of financial assistance”) to or in favour of the following: -
 - (i) directors or employees of the listed issuer or its subsidiaries;
 - (ii) persons to whom the provision of financial assistance -
 - aa) is necessary to facilitate the ordinary course of business of the listed issuer or its subsidiaries; or
 - bb) pursuant to the ordinary course of business of the listed issuer or subsidiaries; such as the provision of advances to its sub-contractors or advances made to clients in the ordinary course of its moneylending business; or
 - (iii) the subsidiaries, associated companies or joint arrangements of the listed issuer, the listed issuer (in the case of the subsidiaries providing the financial assistance) or its immediate holding company which is listed.

- Paragraph 8.23(2)(a)(i) of the Main LR states that where a listed issuer or its subsidiaries provide financial assistance, the board of directors of such listed issuer must ensure that the provision of the financial assistance referred to in paragraph 8.23(1) of the Main LR is fair and reasonable to the listed issuer and is not to the detriment of the listed issuer and its shareholders.

Note: The above are provisions of paragraph 8.23 of the Main LR applicable at the material time of the breach.