

Listing Requirements Enforcement In Focus

Delay in Issuance of Financial Statements

Paragraph/Rule 9.22 of the LR requires a listed issuer/corporation to announce its quarterly report within 2 months after the end of each quarter of a financial year.

Paragraph/Rule 9.23 of the LR requires a listed issuer/corporation to:-

- announce its annual audited accounts within 4 months from the close of the financial year; and*
- issue its annual report within 6 months from the close of the financial year ending prior to 31 December 2014, 5 months from the close of the financial year ending on or after 31 December 2014 and 4 months from the close of the financial year ending on or after 31 December 2015.*

CASE 1 – DELAY DUE TO SHORTAGE/RESIGNATION OF STAFF



Relevant Facts

Company A failed to issue a total of 5 financial statements comprising of its annual audited accounts and annual report for the FYE 30 June 2008 and 3 quarterly results for the FPE 30 September 2008, 31 December 2008 and 31 March 2009 within the time frame prescribed under the LR. The delay ranged from 18 market days to 6 months and was essentially due to shortage of staff. The shortage of staff did



not absolve the obligations of the company and its directors to ensure timely submission of the financial statements as the company and its directors were required to ensure adequate resources to discharge the obligations under the LR. Further, in this case, it was noted that the company had a Group Financial Controller and had ample time to recruit the necessary staff or take such other steps to address the problem in order to complete the preparation of the financial statements. The delayed financial statements when

subsequently issued had a disclaimer opinion resulting in the company being classified as a PN17 company (financial condition).

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In another case, Company X failed to announce/issue its annual report for the FYE 30 June 2017 and quarterly reports from the FPE 31 March 2017 until 30 June 2018. The company had represented, amongst others, that the delay was mainly due to the expiry of the employment contract of its Chief Financial Officer. However, there was no evidence of any steps/actions taken to fill the vacancy of the Chief Financial Officer and the financial statements remained outstanding.



Enforcement Decision

- (i) Company A and Company X – **public reprimand.**
- (ii) Directors of Company A –
 - (a) **public reprimand and fine of RM113,250 were imposed against the Executive Chairman** who was the person primarily in charge of the business and operations of the company including financial management and had failed to take reasonable and expeditious steps/measures to address the manpower issue to enable timely submission of the financial statements; and
 - (b) **public reprimand and fine of RM22,650 were imposed against each of the Non-Executive Directors** as they merely relied on the Executive Chairman and the management to ensure the compliance of the financial reporting obligations under the LR. It was noted that although there was no board meeting from October 2008 until April 2009 (a period of 6 months), no enquiries and no actions were made/taken as to the status of the outstanding financial statements by these directors.
- (iii) Directors of Company X –
 - (a) **public reprimand and fine of RM500 per market day for each delayed financial statements (subject to a maximum fine of RM1,000,000 for each financial statement) until the financial statements are submitted were imposed against the Executive Chairman cum Chief Executive Officer** who was responsible for overseeing the Group's general corporate affairs and to recruit/find a replacement candidate for the Chief Financial Officer but had wholly disregarded and/or abdicated his responsibilities;
 - (b) **public reprimand and fine of RM200 per market day for each delayed financial statements (subject to a maximum fine of RM1,000,000 for each financial statement) until the financial**

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statements are submitted were imposed against an **Executive Director** who assisted the Executive Chairman in overseeing the Group's general corporate affairs but had wholly disregarded and/or abdicated his responsibilities to ensure the company's compliance with the LR; and

- (c) **public reprimand and fine of RM8,800 against a senior Independent Non-Executive Director (who resigned on 3 August 2017) and fine of RM8,200 were imposed against another Independent Non- Executive Director (who resigned on 31 July 2017)** who were only culpable for the company's delay in announcement of the quarterly report for the FPE 31 March 2017 ("QR March 2017"). They had merely relied on the Executive Directors and/or management and failed to take reasonable steps (for a period of approximately 3 months since being informed of the vacancy of the Chief Financial Officer on 2 May 2017) until their resignation to follow-up, monitor and supervise the management to ensure timely announcement of the QR March 2017.

However, no finding of breach was made against 1 Independent Non-Executive Director who had taken numerous actions such as meeting with the Chief Financial Officer to persuade him to extend his service and following up on the status of the appointment of the Chief Financial Officer and/or preparation of the QR March 2017 vide numerous phone calls/email. However, the Executive Chairman did not respond to his follow-ups and refused his offer to get the assistance of the former Chief Financial Officer to ensure timely preparation and review of the QR March 2017.

More information on the cases can be found in the Media Releases dated [23 March 2010](#) and [29 March 2019](#) respectively.

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CASE 2 – DELAY DUE TO LACK OF PROPER MAINTENANCE OF INFORMATION



Relevant Facts

Company B only submitted its annual audited accounts for the FYE 31 March 2008 after a delay of 21 market days while another Company P only issued its annual report for the FYE 31 December 2016 on 6 June 2017, after a delay of 25 market days. The delay was essentially due to internal weaknesses in the maintenance of financial information in the company or failure to establish a proper and effective/adequate finance function resulting in failure to provide all the necessary documents and information to the external auditors expeditiously to enable finalisation of the financial statement.



Enforcement Decision

- (i) Company B and Company P - **public reprimand**.
- (ii) Directors of Company B - **public reprimands were imposed against 3 Executive Directors** who were responsible and/or involved in the preparation of the accounts taking into consideration that the subsidiaries' auditors had also contributed to the delay.
- (iii) Directors of Company P – **public reprimand and fine of RM12,500 were imposed against the Chief Executive Officer** where he had failed to demonstrate reasonable supervision over the finance function/management to enable timely issuance of the AR 2016.



However, no finding of breach was made against the other directors of Company B and Company P as they were able to demonstrate that upon being aware of the issues, they had continuously monitored the progress of the audit, instructed and thereafter reasonably relied on management to provide the relevant information (i.e. management plan and profit forecast) requested by the auditors to address the auditor's issues/concerns.

More information on the cases of can be found in the Media Releases dated [17 September 2009](#) and [6 May 2019](#) respectively.

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CASE 3 – DELAY DUE TO DISPUTE WITH EXTERNAL AUDITORS' DISCLAIMER OPINION



Relevant Facts

Company C

Company C submitted its annual report for the FYE 31 December 2007 and quarterly results for the FPE 31 March 2008 after a delay of 5 months and 31 market days respectively. The delay was essentially due to the external auditors' disclaimer opinion in the company's audited accounts which was disputed by the company. Notwithstanding the non-resolution of the dispute, the audited accounts were issued in any event by the company on the submission deadline. The unresolved issue which gave rise to the disclaimer opinion subsequently led to the re-audit of the company's audited accounts. As a result, both the annual report and quarterly results were delayed as these could only be submitted by the company upon completion of the re-audit.

Company M

Company M submitted its annual audited accounts for the FYE 30 June 2014 on 1 December 2014 after a delay of 1 month. The delay was essentially due to the failure of Company M to resolve certain outstanding audit matters which formed the basis for the external auditors' disclaimer audit opinion in the audited accounts. The circumstances which formed the basis for the external auditors' disclaimer opinion was essentially premised on the external auditors' inability to obtain sufficient appropriate audit evidence to ascertain the outstanding audit matters.

Company F

Company F and its directors had failed to issue its annual report for the FYE 30 June 2018 on 31 December 2019, after a delay of 14 months. Company F and its directors had merely assumed that the external auditors would maintain a similar qualified opinion as in the annual audited financial statements for the previous FYE 30 June 2017 and had refused to finalise/issue the annual report for the FYE 30 June 2018 with the disclaimer opinion to avoid the company triggering PN17 which would purportedly jeopardise the company's prospects in securing a project. In this respect, while issuance of the annual report with the disclaimer opinion might have an unfavourable impact to the company, the timely issuance of the annual report was crucial to shareholders/investors to make informed investment decision and the non-disclosure was prejudicial to the interest of shareholders/investors.

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Enforcement Decision

- (i) Company C, Company M and Company F – **public reprimand**.
- (ii) Directors of Company C –
- (a) **public reprimand and a fine of RM22,750 were imposed against the Managing Director** who was in charge of the financial affairs of the company including engaging with the external auditors and the preparation and finalisation of financial statements; and
- (b) however, no finding of breach was made against the other directors in light that:-
- they were neither involved in or had knowledge of the relevant documents and records in relation to the contract which gave rise to the disclaimer opinion;
 - they had reasonably monitored the progress upon becoming aware of the audit issue including instructing the management to procure and provide the documents to the external auditors expeditiously and had reasonably relied on the management to provide the documents to the external auditors and update them;
 - they were also not informed by the management that the issue remained unresolved and that the audited accounts were issued with the disclaimer opinion until after the issuance of the audited accounts; and
 - thereafter, they had taken the necessary actions to expedite the re-audit and the issuance of the annual report and quarterly results.
- (iii) Directors of Company M –
- (a) **public reprimand and a fine of RM10,500 were imposed against the Chief Executive Officer** who was responsible for the preparation, review and approval of the audited accounts including liaising with the external auditors to provide them with the requisite information towards the finalisation of the audited accounts; and
- (b) **public reprimand and a fine of RM4,200 each were imposed against the other directors** as they had failed to take reasonable steps/efforts to provide the information required and to address and resolve with the external auditors the outstanding audit matters expeditiously and continued to merely rely on the management even when it was clear that the management had not been effective and expedient in resolving the outstanding audit matters with the external auditors. Company M and its directors had in fact been informed and reminded by the external auditors of the outstanding audit matters including the possibility of a qualified/disclaimer

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opinion in the audited accounts as early as 25 August 2014 but Company M and the directors had failed to address and resolve with the external auditors the outstanding audit matters expeditiously to enable the finalisation and issuance of the audited accounts.

(iv) Directors of Company F –

- (a) **public reprimand and continuing fines until issuance of the annual report i.e. RM142,000 were imposed on the Managing Director;**
- (b) **public reprimands and a fine of RM56,800 was imposed on each of the other directors;** and
- (c) **public reprimand and a fine of RM6,400 was imposed on a director up to his resignation on 19 December 2018.**

A higher fine was imposed on the Managing Director who was primarily responsible for the financial management and preparation of the company's financial statements and the Board had relied on his numerous representations in agreeing to delay the issuance of the annual report.

More information on the cases can be found in the Media Releases dated [28 May 2009](#), [29 June 2016](#) and [22 October 2020](#) respectively.

CASE 4 – DELAY DUE TO PENDING INVESTIGATIVE/SPECIAL AUDIT/REVIEW



Relevant Facts

Company D furnished its quarterly results for the FPE 31 December 2008 after a delay of 15 market days. The delay was due to the delay on the part of the board in ascertaining the financial implication arising from alleged misappropriation of funds by the Chief Executive Officer of the company. In this regard, the board of directors was informed by a third party vendor on a possible misappropriation of funds in May 2008. However, the investigative audit to ascertain the financial impact on the misappropriation of funds was only initiated on 22 January 2009 (more than 6 months from being notified of possible defalcation which may have material impact to the financials of the company). As a result, the company only received the complete report from the investigative auditors on 3 March 2009 and issued the quarterly results which incorporated the investigative auditors' report on 23 March 2009 even though the deadline for submission of the quarterly results was on or before 28 February 2009.

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In another case, Company W announced its quarterly report for the FPE 30 September 2015 (“QR Sept 2015”) on 26 February 2016, after a delay of 3 months. The delay was essentially due to the failure of Company W and its directors to undertake proper and reasonable assessment on the impairment of an asset. In accordance with the accounting standard, the asset clearly should have been written off as the asset had failed to function completely and no future economic benefit was expected from its use. However, the directors had on 25 November 2015 decided to engage an independent review to substantiate the impairment leading to the delay. When Company W subsequently announced the QR Sept 2015 on 26 February 2016, the asset amounting to RM32 million was fully written off without any change of circumstances and without completion of the independent review which was terminated on 27 January 2016.



Enforcement Decision

- (i) Company D and Company W - **public reprimand**.
- (ii) Directors of Company D - Even though the directors were informed of the alleged misappropriation, they failed to take expeditious steps to ascertain the veracity and implication of the alleged misappropriation until 1 month prior to the deadline for submission of the quarterly results. In addition to **public reprimand, a fine of RM7,500 was imposed on the Executive Director** who was primarily responsible for the financial management of the company upon suspension of the Chief Executive Officer and **a fine of RM3,000 each was imposed on 2 other directors**.
- (iii) Directors of Company W –
 - (a) **public reprimand and a fine of RM28,500 were imposed against the Executive Director** primarily responsible for the financial management of the company;
 - (b) **public reprimand and a fine of RM1,000 were imposed on the Audit Committee chairman (who resigned on 8 December 2015) and a fine of RM11,400 each was imposed against the Independent Non-Executive Chairman, an Executive Director and 2 Audit Committee members** who were aware of the facts and circumstances which clearly did not justify the company’s failure to provide for a full impairment of the asset in the QR Sept 2015 during the board meeting on 25 November 2015; and

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- (c) **public reprimand and a fine of RM5,700 were imposed against an Audit Committee member** who did not participate and was not involved in the decision to engage the independent review but had failed to take reasonable efforts to supervise the management to ensure the independent review was finalised expeditiously for the announcement of the QR Sept 2015.

More information on the cases can be found in the Media Releases dated [28 October 2010](#) and [6 May 2019](#) respectively.

CASE 5 – DELAY DUE TO APPOINTMENT OF PROVISIONAL LIQUIDATOR



Relevant Facts

Company E failed to issue its annual audited accounts and annual report for the FYE 31 December 2007 and quarterly report for the FPE 31 March 2008. The delay ranged from 2 months to 4 months. The delay was essentially due to the appointment of the provisional liquidator (“PL”) on 27 March 2008 and delay in the completion of the audit of its foreign subsidiaries.



Enforcement Decision

- (i) Company – **public reprimand**.
- (ii) Directors –
- (a) The directors were found to have contravened the LR by permitting the company to breach the LR. Based on the facts and circumstances, notwithstanding the appointment of the PL, the directors were in fact still responsible for the preparation and finalization of the financial statements as they were authorized by the PL and had continued to make announcements on behalf of Company E even after the appointment of the PL. Further, the financial statements were in respect of the financial period prior to the PL’s appointment. **Public reprimands** were imposed on all the directors. In addition, **a fine of RM43,000 was imposed on the Executive Director** primarily responsible for the financial management of the company;

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- (b) a fine of RM17,200 each was imposed on the other Executive Director and 3 Non-Executive Directors who were also members of the Audit Committee taking into consideration their roles and responsibilities with regard to preparation and finalisation of the financial statements and a fine of RM8,600 was imposed on a Non-Executive Director.

More information on this case can be found in the Media Release dated [2 October 2009](#).

CASE 6 – DELAY DUE TO FAILURE TO OBTAIN SUBSIDIARY’S ACCOUNTS



Relevant Facts

Company N failed to issue its annual audited accounts for the FYE 31 December 2013 and 3 quarterly reports for the FPE 30 June 2013 (“2nd QR June 2013”), 30 September 2013 and 31 December 2013. The delay was essentially due to the company’s failure to obtain the management accounts of its 51% owned subsidiary, Company T (the major subsidiary and the only operating subsidiary) as at 30 June 2013 for consolidation in view of the board/legal tussle with its Chief Executive Officer. The Chief Executive Officer who was also a director of Company T, was removed as a director of Company N on 29 July 2013.

In another case, Company G had failed to announce/issue numerous financial statements (annual audited accounts, annual reports and quarterly reports) from the FYE 31 December 2010 until 2014. The delay was allegedly due to the non-finalisation of the company’s subsidiary accounts, where the subsidiary had disputed that its accounts were improperly prepared by Company G prior to the consolidation into Company G’s audited accounts for the financial year 2008 and 2009 issued on 30 July 2010.



Enforcement Decision

- (i) Company N and Company G – **public reprimand.**
- (ii) Directors of Company N – The Chief Executive Officer was found to have caused Company N’s failure to announce the financial statements. Prior to his removal as a director of Company N, he had blatantly disregarded his duty to ensure compliance by Company N of its financial reporting obligations under the LR where not only had he failed to demonstrate any efforts to procure the

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relevant accounts of Company T but he had also refused Company N's request as well as frustrated Company N's efforts to procure the accounts to enable the preparation/finalisation of the 2nd QR June 2013. **A public reprimand and fine of RM2,000 per market day delay for each delay of the financial statements until the relevant accounts of Company T was furnished to Company N to enable preparation/finalisation of the 2nd QR June 2013 were imposed on the Chief Executive Officer.** A punitive penalty was imposed on him taking into consideration his willful and unreasonable/aggravating conduct which was the primary cause/reason for Company N's failure to finalise the 2nd QR June 2013. However, no finding of breach was made against the other directors in light of evidence of various attempts/steps/measures taken by them to obtain the management accounts of Company T including lodging complaint/report with the relevant authorities and initiating legal actions to compel Company T to furnish its management accounts immediately.

- (iii) Directors of Company G – All the directors at the material time were **publicly reprimanded and imposed with fines ranging from a total amount of RM132,400 to RM784,000** taking into consideration their respective roles, responsibilities, knowledge and conduct. There was no basis to the contention that the events leading to the delay in finalisation of subsidiary accounts and Company G's financial statements were purportedly outside the directors' control. The directors had failed to ensure the proper preparation, review and approval of Company G's audited accounts for the financial year 2008 and 2009 despite concerns being highlighted by the external auditors. This had led to the subsequent issues and thereafter the necessity for rectification of/re-doing the subsidiary's accounts as well as the prolonged delay in the rectification and finalisation of Company G's outstanding financial statements. Further, the directors' involvement/lack of involvement including failure to take expeditious steps to resolve the issues had led to the delay in finalisation of the subsidiary's accounts. The directors' actions in merely reminding and thereafter, total/mere reliance on the relevant parties i.e. the management of Company G and its subsidiaries as well as the auditors to finalise the outstanding financial statements for a period ranging from 1 year to more than 2 years during the directors' tenure without more, were not acceptable in the proper discharge of their obligations.

More information on the cases can be found in the Media Releases dated [8 October 2014](#) and [14 April 2016](#) respectively.

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CASE 7 – DELAY DUE TO FAILURE TO ADDRESS/RESOLVE AUDIT ISSUES



Relevant Facts

Company ET

Company ET had delayed in the announcement of its audited financial statements for the financial period from 1 September 2011 to 28 February 2013 by 24 market days. The delay was due to Company ET's delay/failure in addressing/resolving the following audit issues:-

- (i) reclassification of assets in a proposed disposal of an indirectly owned subsidiary of the Company;
- (ii) furnishing the external auditor 3 years profit and cash flow forecast and projection; and
- (iii) conducting physical stock count in relation to the Company's inventories.

Company GC

Company GC had delayed in the announcement of its audited financial statements for the FYE 31 December 2012 ("AAA 2012") by 39 market days, quarterly report for the FPE 31 March 2013 by 18 market days and annual report for FYE 31 December 2012 by 5 market days. The delays were due to the Company's failure to resolve the various outstanding audit matters comprising of mainly audit confirmations from bankers/borrowings and solicitors, the status of defaulted borrowings and the status of the Company's regularisation plan pursuant to PN17 prior to the due date to announce the AAA 2012.

Company MS & Company MW

Both Company MS and Company MW had failed to issue their respective annual report for the FYE 31 December 2015 ("AR 2015") within the stipulated timeframes. Company MW had delayed in the issuance of its AR 2015 by approximately 3 months. In addition, Company MS had failed to announce its quarterly reports from the period ended 30 June 2016 until 30 June 2017 within the stipulated timeframes. The delays were due to the failure of Company MS and Company MW to resolve material audit issues with the external auditors mainly pertaining to substantial advertising expenditures and bank/cash balances. Both Company MS and Company MW had failed to take reasonable and expeditious efforts to provide sufficient audit evidence (and for Company MW, to commission a special audit) to resolve the audit issues despite numerous notices and communications from the external auditors.

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Company VC

Company VC had delayed in the issuance of its annual report for the FYE 31 March 2018 by 29 market days. The delay was due to Company VC's failure to resolve the audit issue on the prepayments/purported professional fees paid for land conversion services which led to an investigative audit and eventually gave rise to the external auditors' qualified opinion in the audited financial statements.



Enforcement Decision

- (i) Company ET, Company GC, Company MS, Company MW and Company VC – **public reprimand**.
- (ii) Executive Directors – **public reprimand and fines** as follows:-
 - (a) **RM12,000 and RM4,800 against 2 Executive Directors of Company ET** who were primarily responsible for the financial management of the Company and should be aware of the audit issues raised, were in a position to ascertain, address and ensure all audit issues were resolved, but had failed to take reasonable steps to discharge their duties;
 - (b) **RM19,500 against the only Executive Director of Company GC** who was responsible for overseeing the Company's operations/departments including the Finance Department which regularly reported and/or discussed the preparation of the outstanding financial statements with him. However, the Executive Director had failed to take reasonable steps to ensure that the outstanding audit matters were settled to ensure timely announcement of the Company's financial statements;
 - (c) **RM500 per market day for each delay of the financial statements (subject to a maximum fine of RM1,000,000 for each financial statement) until the financial statements are submitted against the Executive Chairman and the Executive Director cum Chief Executive Officer of Company MS**. They had wholly disregarded/abdicated their responsibilities and caused Company MS' failure to submit the financial statements and comply with the obligations under the LR; and
 - (d) **RM66,000 against the Executive Director/President of Company MW** who was the only Executive Director of the company and had blatantly disregarded/abdicated her responsibilities to ensure the company's timely issuance of the AR 2015. She was lackadaisical in resolving

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the audit issues and had in fact impeded the commissioning/completion of the special audit(s) towards timely issuance of the AR 2015.

- (e) **RM29,000 against the Managing Director/Group Chief Executive Officer of Company VC** who had essentially caused the unresolved audit issue and failed to ensure proper supervision, maintenance and provision of the supporting documents/records and satisfactory explanations/justifications on the prepayments .

(iii) Non-Executive Directors:-

- (a) **the Independent Non-Executive Chairman and an Independent Non-Executive Director of Company ET were publicly reprimanded and fined RM1,200 and RM4,800 respectively.** They were members of the Audit Committee and had the specific function under the LR to review financial statements. They were or should be aware of the audit issues/requests raised by the external auditors but failed to demonstrate reasonable efforts to discharge their duties including to monitor and ensure expeditious resolution of the information requested by the external auditors which were material to enable the directors to assess and make informed decisions on the financial position/prospect of the Company;

- (b) **3 Independent Non-Executive Directors and members of the Audit Committee of Company MS were publicly reprimanded** as they had failed to take reasonable steps to inquire, follow-up, monitor, supervise and address/resolve the audit issues. They had merely relied on the Executive Directors and/or management to resolve the audit issues and finalise the AR 2015. In this regard:-

- notwithstanding that 2 of the Independent Non-Executive Directors had resigned on 20 April 2016 prior to the due date for submission of the AR 2015 on 30 April 2016, their resignations without any attempt to address/resolve the audit issues was an abdication of their responsibilities and did not absolve their culpability.
- 1 of the Independent Non-Executive Director was also imposed **a fine of RM7,200** (in addition to a public reprimand) as he was ignorant and had failed to take any action to ensure Company MS' timely submission of the AR 2015 including after the resignations of the 2 Independent Non-Executive Directors.

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- (c) No finding of breach was made against:-
- the other directors of Company GC who were not aware of the audit issues/delay in issuance of the AAA 2012, had taken reasonable steps and would have reasonably relied on the management to resolve the outstanding audit matters which mainly consisted of pending confirmation from external parties that was generally the normal procedures within the statutory audit process;
 - the other directors of Company MW who had demonstrated proper and close supervision and monitoring over the management in the review of financial statements, identifying areas of concern for audit and taken expeditious steps including an extended/special audit to resolve the audit issues upon being informed of same; and
 - the other directors of Company VC who were not aware of the prepayments and upon being informed of the audit issue, they had taken reasonable steps to seek clarification from management, appoint auditors to conduct an investigative audit and monitor completion of the same and suspend the Managing Director and Chief Financial Officer pending completion of the investigative audit.

More information on the cases can be found in the Media Releases dated [6 February 2015](#), [26 February 2015](#), [1 November 2017](#), [5 April 2018](#) and [27 July 2020](#) respectively.

CASE 8 – DELAY DUE TO FAILURE TO PROCURE DOCUMENTS AS A RESULT OF A FIRE INCIDENT



Relevant Facts

Bursa had granted Company CS' request for an extension of two months (i.e. by 30 June 2014) to announce its audited accounts for the FYE 31 December 2013 due to loss of records as a result of a fire incident. However, Company CS failed to announce the audited accounts on or before the extended due date of 30 June 2014. Instead, Company CS only announced the audited accounts on 8 July 2014, after a delay of 6 market days. The delay was essentially due to the company's failure to provide the information/documents requested by the external auditors since 16 April 2014 and there was no certainty as to when and whether the said information/documents could be provided towards resolving the audit

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issues and the disclaimer opinion by the external auditors in respect of the audited financial statements. Company CS had also delayed in the issuance of its annual report by 31 market days which Company CS represented was due to the necessity to make revisions/enhancements to the annual report and the time taken for the company secretary to liaise with the printers.



Enforcement Decision

- (i) Company – **public reprimand**.
- (ii) Directors – **public reprimand and fines ranging from RM400 to RM18,500** taking into consideration their knowledge, roles and responsibilities. The directors had merely reminded the management to finalise the audited accounts and thereafter, despite failure by the management to do so, continued to rely on the management without more. The directors had failed to take reasonable/pro-active steps including to monitor and supervise the preparation and finalisation of the audited accounts to ensure timely issuance of the financial statements.

More information on this case can be found in the Media Release dated [24 May 2016](#).

CASE 9 – DELAY DUE TO FAILURE TO SETTLE AUDIT FEES



Relevant Facts

In 2019, enforcement actions were taken against 2 companies and its directors i.e. Company K which had failed to issue its annual report for the FYE 30 June 2017 (“AR 2017”) and Company W which had failed to issue its annual report for the FYE 31 December 2015 and 31 December 2016 (AR 2015 and AR 2016 respectively) within the stipulated timeframe due to, amongst others, purported lack of funds and/or delay/non-payment of audit fees. Company K had issued the AR 2017 on 15 December 2017, after a delay of 32 market days. Company W had issued the AR 2015 on 29 November 2016, after a delay of 7 months but the AR 2016 has yet to be issued.

Glossary:

Bursa - Bursa Malaysia Securities Berhad

FYE – financial year ended

FPE – financial period ended

LR - the Main Market Listing Requirements or the ACE Market Listing Requirements, as the case may be

PN17 – Practice Note 17 of the Main Market Listing Requirements

Listing Requirements Enforcement In Focus



Enforcement Decision

- (i) Company K and Company W – **public reprimand**.
- (ii) Directors of Company K – **public reprimand** on the directors where they had failed to monitor, supervise and/or ensure the timely payment of the outstanding audit fees to enable timely issuance of the AR 2017 despite the numerous reminders from the external auditors. In addition, **a fine of RM16,000 each was imposed on the Executive Chairman and the Chief Executive Officer** who had the primary responsibility for the management of Company K's operations and/or financial management while **a fine of RM6,400 each was imposed on an Executive Director and a Non-Executive Director**.
- (iii) Directors of Company W –
- (a) In respect of the delay in issuance of the AR 2015:-
- **a public reprimand and fine of RM30,500 was imposed on the Executive Director primarily responsible for the financial management of the company;**
 - **a public reprimand and fine of RM12,200 each was imposed on the Independent Non-Executive Chairman and an Executive Director** who had failed to monitor and supervise the management with regard to the preparation of the AR 2015 and address/resolve the issues (including payment of audit fees) with the external auditors expeditiously to enable timely issuance of the AR 2015; and
 - **3 Non-Executive Directors were publicly reprimanded** where they had failed to take any action including deliberation/discussion and making enquiries on the audit of the financial statements for the FYE 31 December 2015 and the preparation and issuance of the AR 2015 before the due date of issuance of the AR 2015 on 30 April 2016. Company W had only paid all the outstanding audit fees on 12 May 2016 and the board only first discussed the issuance of the audited financial statements during the meeting on 17 May 2016 i.e. after the due date. Even though the 3 Non-Executive Directors had resigned on 1 April 2016 (i.e. prior to the due date), they were not absolved as they were also members of the Audit Committee who had the specific function under the LR to, amongst others, review the audit plan, the external auditors' audit report and financial statements but they had failed to discharge their responsibilities in this regard.

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- (b) In respect of the non-issuance of the AR 2016, **a public reprimand and fine of RM16,500 was imposed on the Executive Director primarily responsible for the financial management of the company and a fine of RM6,600 each was imposed on the Independent Non-Executive Chairman and an Executive Director** who had merely noted/accepted that the company did not have sufficient funds. They failed to take any effort including to address/resolve the purported lack of funds and source/appoint new external auditors despite being informed of the resignation of the external auditors since November 2016 (i.e. more than 5 months before the due date of issuance of the AR 2016 on 30 April 2017) until they were removed as directors on 20 June 2017.

More information on the cases of Company K and Company W can be found in the Media Releases dated [3 May 2019](#) and [6 May 2019](#) respectively.

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