

Public Disciplinary Action by SGX RegCo

On 5 May 2022, the **SGX-ST Listings Disciplinary Committee reprimands** Ang Nam Wah Albert for breaching Catalist Rule 703(1)(a), read with Catalist Rule 302(6), by causing AGV Group Limited (the “**Company**”) to **fail to disclose his involvement in an investigation conducted by the Commercial Affairs Department**, which was information known and necessary to be disclosed to avoid the establishment of a false market in the Company’s securities. A summary of the case is set out below:

Background

Ang Nam Wah Albert was formerly the Chief Executive Officer of the Company between 2 October 2015 and 13 January 2020. At all material times, he was also an Executive Director of the Company.

1 July 2020	The Company’s Board announced that the Company had received a Notice dated 30 June 2020 from the CAD and the MAS requiring the Company to provide information in relation to the Investigation into an offence under the SFA, and that one of the Company’s directors had provided a statement to CAD to assist in the Investigation.
2 July 2020	In response to the clarifications sought by the SGX, the Company disclosed that Ang was the director who provided the statement to CAD and that the <u>Board was unable to confirm if the Company and/or Ang was the subject of the Investigation</u> as the subject of the Investigation was not disclosed in the Notice. The Company also disclosed that <u>Ang was only asked to assist in the Investigation, and no charges had been preferred against any person or entity.</u>
7 July 2020	Pursuant to further queries from the SGX, the Company disclosed that <u>Ang’s passport had been retained by CAD</u> as a procedural requirement during investigations, and that CAD had informed Ang that he would have to approach CAD if he wished to travel.
7 August 2020	The Company announced that <u>Ang informed the Board after trading hours on 4 August 2020</u> that CAD had issued an Order for the surrender of his travel document on <u>30 June 2020</u> . The Order stated that CAD had reasonable grounds for believing that Ang had committed an offence of false trading and market rigging transactions under section 197 of the SFA.

Pertinent Facts

In the announcement dated 7 August 2020, it was stated that the Board had asked Ang at an emergency Board meeting held on 1 July 2020 as well as on a few other occasions and Ang has, prior to 4 August 2020, **denied repeatedly that he has received any other order, notices or summons in relation to the Investigation.**

Regulatory Concerns

In this case, Ang’s failure to disclose material information caused the Company to fail to disclose the material information and this resulted in market participants trading in the Company’s securities on an uninformed basis. Ang’s misrepresentations in relation to the true extent of his involvement in the Investigation, despite possessing the material information contained in the Order, were inexcusable.

Having considered the facts of the case, the SGX-ST Listings Disciplinary Committee agreed that (i) Ang’s misrepresentations and failure to highlight the Order at the material time was the cause of the Company’s breach of Catalist Rule 703(1)(a); and (ii) Ang had breached Catalist Rule 703(1)(a), read with Catalist Rule 302(6), by causing the Company to fail to disclose his involvement in the Investigation in a timely manner.

Private Disciplinary Actions by SGX RegCo

On 18 April 2022, SGX RegCo has published some case studies highlighting common pitfalls and providing insights on the areas of non-compliance with the listing rules. Stakeholders can use these case studies as a guide on how to avoid similar incidents of non-compliance in future.

Shareholders' Approval on Significant Transaction

Issues and Concerns

The Company entered into two separate transactions to dispose of its assets to the same purchaser without seeking shareholders' approval for the disposals.

As both disposals were made to the same purchaser within a 12-month period, they should be aggregated as if they were one transaction in determining whether the transaction falls under which category of Rule 1004. The relative figures of the aggregated disposals computed on the bases of Rule 1006(a) and (c) exceeded 20%.

However, **the Company classified the second disposal as a discloseable transaction** on the basis that it was distinct and separate from the first disposal and did not obtain shareholders' prior approval. The Company had therefore breached Mainboard Rule 1014(2).

SGX's investigations revealed that the relevant directors had failed to consider Mainboard Rule 1005 and viewed the disposals to be separate and distinct.

SGX Decision

Having considered that the disposals pertained to the Group's loss-making business as well as the limited market impact as a result of the rule breaches, SGX took private disciplinary actions against the **Company**, the **relevant Board** and the **relevant director** for breaching Mainboard Rule 1014(2).

Mainboard Rule 1005

stipulated that in determining the classification of transactions under Chapter 10, the SGX may aggregate separate transactions completed within the last 12 months and treat them as if they were one transaction.

Non-Disclosure of Conflict of Interest

Issues and Concerns

The Company announced the appointment of an independent director. Concurrent with, and on the same day of, the appointment, a private entity, which the independent director was the sole shareholder and director of, entered into a 24-month consultancy agreement with the Company for a significant amount of fee.

Notwithstanding the execution of the consultancy agreement, the announcement of the independent director's appointment stated that the director did not have any conflict of interest with the Company and there was no mention of the consultancy agreement.

Accordingly, the Company had breached Mainboard Rule 704(7)(a) read with Appendix 7.4.1, by failing to disclose the consultancy agreement as the newly appointed independent director's conflict of interest with the Company and the Board's assessment of the director's independence in light of the consultancy agreement.

SGX Decision

Having considered that the limited market impact as a result of the rule breaches, SGX took private disciplinary actions against the **Company**, the **relevant Board** and the **relevant director** for breaching Mainboard Rule 704(7)(a), read in conjunction with Appendix 7.4.1.

Non-Disclosure on Past Investigation

Issues and Concerns

The Company was the subject of a past investigation and the re-elected directors were directors of the Company at the time of investigation. Notwithstanding so, the Company and re-elected directors provided negative confirmations to the relevant question when disclosing the information required under Appendix 7.4.1 in its annual report. Accordingly, the information required under Appendix 7.4.1 on the re-elected directors were inaccurate.

SGX Decision

The Company has announced the investigation during the material time as well as reported in other section of the same annual report. There was therefore insufficient evidence of dishonest concealment by the Company and the re-elected directors. SGX therefore took private disciplinary actions against the **Company** and the **relevant directors** for breaching Mainboard Rule 703(4)(a) read in conjunction with paragraph 25(a) of Appendix 7.1.

Mainboard Rule, Appendix 7.4.1(j)(iv) requires the candidate to declare “Whether he has ever, to his knowledge, been concerned with the management or conduct, in Singapore or elsewhere, of the affairs of any entity or business trust which has been investigated for a breach of any law or regulatory requirement that relates to the securities or futures industry in Singapore or elsewhere”

Non-Disclosures on Business Relationships

Issues and Concerns

At the point of seeking election to the Board, the two directors were directors and shareholders of a company in which a substantial shareholder of the Company had invested into. In this regard, the two directors had an existing relationship with the substantial shareholder. However, the Company’s annual report containing the information required under Appendix 7F did not disclose those relationships. SGX’s investigations revealed that the directors had promptly disclosed the relationship to the Board and Registered Professional. However, the information was negligently omitted from the announcements.

Accordingly, the Company had breached Catalist Rule 703(4)(a), read in conjunction with paragraph 27(a) of Appendix 7A, and the elections of the directors were based on inaccurate disclosure by the Company.

SGX Decision

Taking into consideration the circumstances surrounding the breach and the low level of culpability of the involved parties, SGX took private disciplinary actions against the **Company**, the **Board** and the **relevant directors** for the inaccurate disclosure in the directors’ appointment announcement, and against the **Sponsor** and **Registered Professional** of the Company.

Catalist Rules Breaches

720(5)	To provide information as set out in Appendix 7F which requires the candidate to declare “Any relationship (including immediate family relationships) with any existing director, existing executive officer, the issuer and/or substantial shareholder of the listed issuer or of any of its principal subsidiaries”.
703(4)(a)	To observe the Corporate Disclosure Policy set out in Appendix 7A, of which Paragraph 27(a) states that each announcement must be factual, clear, and succinct.
226(2)(b)	Sponsor to review review all documents to be released by the issuer to shareholders or to the market before release, to ensure that the issuer is in compliance with the Rules and makes proper disclosure.
229(2)	Registered professional to exercise skill, care and diligence and comply with the applicable rules when carrying out the duties and obligations of the sponsor.

Share Buyback

SGX Decision

Taking into consideration the circumstances surrounding the breach and the clean compliance track record of the Company, SGX took private disciplinary actions against the **Company**, the **Board** and the relevant director.

Issues and Concerns

A director executed share buyback transactions, on behalf of the Company, at prices that were above the Permissible Price Limit. There was no announcement on the share buyback transactions as required under Catalist Rule 871. In response to the Exchange’s trading query, the Company disclosed that it had executed share buyback transactions at prices above Permissible Price Limit. Few days later, the Company issued a clarification announcement stating that the share buyback transactions had been unwound.

SGX’s investigation revealed that the Company did not have sufficient procedures in place to ensure compliance with the share buyback requirements.

Catalist Rules Breaches

869	an issuer may only purchase shares by way of a market acquisition at a price which is not more than 5% above the average closing market price.
871	an issuer to announce any share buyback in the case of a market acquisition, by 9.00 am on the market day following the day on which it purchased shares.
719(1)	an issuer to have adequate and effective systems of internal controls (including financial, operational, compliance and information technology controls) and risk management systems.

Lack of Member in the Audit Committee

Issues and Concerns

Following the resignation of a director, the Company’s audit committee did not have a minimum of three members and the audit committee was only re-constituted 11 months later. The Company did not make any application to the Exchange for time extension to fill the vacancy in the audit committee.

SGX Decision

SGX took private disciplinary actions against the **Company** and the **Board** for breaching Catalist Rule 704(7).

Catalist Rule 704(7) stipulates, among others, that in the event of any retirement or resignation which renders the audit committee unable to meet the minimum number (not less than three), the issuer should endeavour to fill the vacancy within two months, but in any case, not later than three months.

Late Release of Sustainability Report

Issues and Concerns

The Company was late in issuing its sustainability report and failed to seek SGX’s approval for time extension to comply with the listing rule.

SGX’s investigations revealed that the Company did not take reasonable steps to ensure that it complied with the disclosure requirements under Mainboard Rule 711A.

SGX Decision

SGX took private disciplinary actions against the **Company** and the **Board** for breaching Mainboard Rule 711A.

Mainboard Rule 711A stipulates that an issuer must issue a sustainability report for its financial year, no later than five (5) months after the end of the financial year.

Useful References:

Public Disciplinary Actions: SGX-ST Listings Disciplinary Committee reprimands former Executive Director of AGV Group Limited, Ang Nam Wah Albert (Please click [here](#))

Private Disciplinary Actions (Please click [here](#))

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