

## STATEMENT OF DISCIPLINARY ACTION

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Exchange's Disciplinary Action against China ZhengTong Auto Services Holdings Limited (Stock Code: 1728) and Five Former Directors

### SANCTIONS AND DIRECTIONS

The Stock Exchange of Hong Kong Limited (**Exchange**)

#### CRITICISES:

(1) **China ZhengTong Auto Services Holdings Limited (Company);**

**IMPOSES A DIRECTOR UNSUITABILITY STATEMENT** against:

(2) **Mr Wang Mu Qing**, former Chairman and executive director (**ED**) of the Company (**Mr Wang**);

(3) **Mr Shao Yong Jun**, former ED of the Company (**Mr Shao**);

#### CENSURES:

(4) **Mr Koh Tee Choong**, former ED and Chief Executive Officer of the Company (**Mr Koh**);

(5) **Mr Li Zubo**, former ED and Chief Financial Officer of the Company (**Mr Li**); and

(6) **Mr Wang Kunpeng**, former ED and Vice Chairman of the Company (**Mr Wang KP**).

(The directors identified at (2) to (6) above are collectively referred to as the **Relevant Directors**.)

The statement made in respect of Mr Wang and Mr Shao above is made in addition to a public censure against each of them. The Director Unsuitability Statement is a statement that, in the Exchange's opinion, Mr Wang and Mr Shao are unsuitable to occupy a position as director or within senior management of the Company or any of its subsidiaries.

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**AND FURTHER DIRECTS:**

Mr Koh, Mr Li and Mr Wang KP to attend 21 hours of training on regulatory and legal topics and Listing Rule compliance, as a pre-requisite of any future appointment as a director of any company listed or to be listed on the Exchange, including at least three hours on each of (i) directors' duties; (ii) the Corporate Governance Code; (iii) the Listing Rule requirements under Chapter 14; and (iv) the Listing Rule requirements under Chapter 14A.

**SUMMARY OF FACTS**

*Relevant Transactions*

In March 2016, an indirect wholly-owned subsidiary of the Company (**Subsidiary**) entered into an undertaking (**Subco Undertaking**) to pay any shortfalls in the event Beijing Guangze Real Estate Development Co., Ltd (**Guangze**) failed to meet its obligations to (i) repay a loan of RMB1.38 billion (**Loan**) and (ii) redeem two investments in the amounts of RMB200 million and RMB220 million (**Investments**) respectively.

In March 2020, the Subsidiary entered into three new agreements (**Shortfall Agreements**) to replace the Subco Undertaking. These agreements provided that the Subsidiary shall pay any shortfalls if Guangze failed to meet its obligations by the extended repayment or investment redemption deadlines in March 2022.

Mr Wang's son had a 90 per cent, and his spouse had a 10 per cent, shareholding in Guangze. Guangze was therefore a connected person of the Company. Each of (a) the Subco Undertaking; and (b) the Shortfall Agreements (in aggregate) (collectively, **Transactions**) constituted major and connected transactions and were therefore subject to the announcement, circular and independent shareholders' approval requirements under Chapters 14 and 14A of the Listing Rules. The Company did not comply with these requirements.

On 17 December 2021, the Company was notified of a PRC court judgment against the Subsidiary. Under the judgment, the Subsidiary was held jointly and severally liable with Guangze for RMB420 million together with interest in respect of the Investments. On 22 June 2022, the judgment was overturned on appeal, which held that the Subsidiary was only responsible for any shortfalls if Guangze failed to pay.

On 28 December 2021, the Company was notified of another PRC court judgment against the Subsidiary. Under the judgment, the Subsidiary was held jointly and severally liable for the Loan principal and interest totalling RMB1.41 billion, and interest for late payment. The Subsidiary continues to be jointly and severally liable for the sums.

The Company only announced the Subco Undertaking and the Shortfall Agreements on 23 and 31 December 2021, approximately 5.8 years and 1.8 years respectively after the obligation to announce arose.

*Involvement of the Relevant Directors*

Mr Wang was the Subsidiary's ED and legal representative when the Transactions were entered into. His personal chop appeared on the Subco Undertaking and the Shortfall Agreements. He signed a board resolution of the Subsidiary to approve the entry into the Shortfall Agreements.

Mr Koh, Mr Li and Mr Wang KP approved the Shortfall Agreements.

None of the Company's directors, except those who were involved in the approval of the Transactions, knew about the Transactions at the time they were entered into. The other directors only found out about the Transactions after the Company was notified of the earliest court judgment referred to above.

*Non-cooperation*

Mr Wang did not respond to the investigation by the Listing Division (**Division**).

Mr Shao disregarded the Division's investigation correspondence and failed to engage with the Division until he received the Division's Notice of Disciplinary Action against him.

**RULE REQUIREMENTS**

Rule 14.34 requires the Company to publish an announcement as soon as possible after the terms of a discloseable transaction have been finalised.

Rule 14.38A requires the Company to send a circular to its shareholders and the Exchange and arrange for its publication, for any major transaction.

Rule 14.40 requires the Company to make any major transaction conditional on approval by shareholders.

Rule 14A.35 requires the Company to publish an announcement as soon as practicable after the terms of a connected transaction have been agreed.

Rule 14A.36 provides that a connected transaction must be conditional on independent shareholders' approval at a general meeting held by the Company.

Rule 14A.46 requires the Company to, amongst other things, send a circular to its shareholders at the same time or before the Company gives notice of the general meeting if the connected transaction is to be approved by shareholders in a general meeting.

Under Rules 3.08, 3.16 and 13.04, the Company's board of directors (**Board**) is collectively responsible for the Company's management and operations, and the directors are collectively and individually responsible for the Company's compliance with the Listing Rules.

Rule 3.08 further provides that the Exchange expects directors, both collectively and individually, to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. Directors are required to act honestly and in good faith in the interests of the company as a whole, avoid conflicts of interest and duty, and apply such degree of skill, care and diligence as may reasonably be expected of a person of his/her knowledge and experience and holding his/her office within the issuer.

Under Rules 3.09B and 3.09C, a director has obligations to:

- (a) comply with the Listing Rules to the best of his ability;
- (b) use his best endeavors to procure the listed issuer's compliance with the Listing Rules; and
- (c) cooperate in any investigation conducted by the Division, which includes promptly and openly answering any questions, promptly providing any documents and attending any meeting or hearing requested of him.

## **LISTING COMMITTEE'S FINDINGS OF BREACH**

The Listing Committee found as follows:

### Company

The Company failed to comply with the requirements under, and therefore breached, Rules 14.34, 14.38A, 14.40, 14A.35, 14A.36 and 14A.46 in respect of the Subco Undertaking and the Shortfall Agreements which constituted major and connected transactions.

### Mr Wang

Mr Wang breached Rule 3.08 and his obligations now set out in Rule 3.09B for the reasons set out below. His breaches were wilful and persistent.

Mr Wang failed to declare and avoid his conflict of interest in the Transactions, such as disclosing that Guangze was a connected person of the Company and abstaining from approving the Transactions. In approving the Subsidiary's entry into the Transactions, Mr Wang did not act in the interests of the Company and for proper purpose. The sole purpose of the Transactions was to confer a benefit upon Guangze which was beneficially owned by Mr Wang's son and his spouse. The Transactions were harmful to the interest of the Company.

Mr Wang failed to exercise his independent judgement in assessing whether the Shortfall Agreements were in the interest of the Company and its shareholders. He claimed, in the submission made to the Company that his approval of the Shortfall Agreements was based upon the approval by the relevant departments and senior management.

Mr Wang concealed the Transactions from the Company's full Board – he did not bring the Subco Undertaking to the attention of all the other directors, and the Shortfall Agreements to the attention of those other directors who were not involved in their approval.

Mr Wang also failed to take steps to procure the Company's Listing Rule compliance in relation to the Transactions. He did not raise for the Board's consideration and discussion the Listing Rule implications of the Transactions before or after he approved the Transactions. He admitted, in the submission made to the Company, that he did not seek compliance advice in relation to the Shortfall Agreements.

Mr Wang also breached his obligation to cooperate in the Division's investigation now set out in Rule 3.09C. His conduct amounted to a serious and/or repeated failure to discharge his responsibilities under the Listing Rules.

Mr Koh, Mr Li and Mr Wang KP

Mr Koh, Mr Li and Mr Wang KP breached Rule 3.08 and their obligations now set out in Rule 3.09B, for the reasons set out below.

They failed to exercise independent judgement to assess whether the Shortfall Agreements were in the interest of the Company. They failed to take steps to protect the Company's interest in approving the Shortfall Agreements. Even if the Shortfall Agreements had been considered without objection by other departments or personnel of the Company from legal, financial or other perspectives, the directors remained under a duty to consider the potential risks to the Company in entering into the Shortfall Agreements, and how any such risks could or should be mitigated in order to protect the Company's interests. Mr Li claimed that he was unable to attend the Company's office due to the Covid pandemic and therefore approved the Shortfall Agreements based upon the approval by the relevant departments and senior management. The access difficulties relating to the Covid pandemic do not provide a basis on which the duties expected of directors should be lowered, or an excuse for a failure to discharge those duties. Had he not been in a position to perform his duties, he should have said so, rather than approve the agreements regardless.

These three Directors did not inform the Board of the Shortfall Agreements, or seek to discuss the agreements with the Board, in particular the independent non-executive directors.

Furthermore, Mr Koh became aware of the Subco Undertaking when approving the Shortfall Agreements. However, there was no evidence that Mr Koh had raised enquiries with Mr Wang, or considered the Listing Rule implications, in respect of the Subco Undertaking.

These three directors also failed to take steps to procure the Company's Listing Rule compliance in relation to the Shortfall Agreements. They should not have placed undue or unquestioning reliance on the Company's Listing Compliance Department, and should have followed up with the department in respect of the Company's Listing Rule compliance. It should have been obvious to any director that a transaction of the size of the Shortfall Agreements, which was being entered into for the benefit of Mr Wang's son, at least might trigger Listing Rule obligations. They should have been on enquiry, but they took no steps to check whether the Listing Rule obligations had been properly considered or handled. Mr Wang KP admitted that he did not procure the Company to obtain professional advice on the Listing Rule implications regarding the Shortfall Agreements even if he was minded to, because no Board meeting was convened for him to make suggestions. This is not an acceptable excuse. If he had concerns, he could and should have taken steps to bring them to the attention of the Board, for example by seeking to convene a Board meeting, or otherwise notifying the other members of the Board. However, he did not do so.

#### Mr Shao

Mr Shao breached his obligation to cooperate in the Division's investigation now set out in Rule 3.09C. His conduct amounted to a serious and/or repeated failure to discharge his responsibilities under the Listing Rules. His disregard for the Division's investigation correspondence and his failure to engage with the Division until after receiving the Notice of Disciplinary Action evidences a serious disregard for the regulator. He is therefore not suitable to be a director or senior management member of the Company or its subsidiaries.

#### **CONCLUSION**

The Listing Committee decided to impose the sanctions and directions set out in this Statement of Disciplinary Action.

For the avoidance of doubt, the Exchange confirms that the above sanctions and directions apply only to the Company and the Relevant Directors, and not to any other past or present directors of the Company.

Hong Kong, 10 September 2024