



CFM HOLDINGS LIMITED

(Incorporated in Singapore under Registration No. 200003708R)

RESPONSE TO SGX-ST QUERIES ON 31 OCTOBER 2021

The board of directors (the “**Board**”) of CFM Holdings Limited (the “**Company**” and together with its subsidiaries, the “**Group**”) wish to announce that the Company had, on 31 October 2021, received queries from the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”) through its Sponsor, Asian Corporate Advisors Pte. Ltd. (“**Sponsor**”).

As requested by the SGX-ST, the Board hereby announces its responses to the queries. This had taken some time as the responses needed to be coordinated across all Directors as well as multiple professional teams.

Question 1

Appointment of Lead Independent Director, Chia Seng Hee (“Mr Chia”)

- (a) It is announced that “the Board (save for Mr Lo), ... is satisfied that Mr Chia possesses the requisite competencies and experience to assume the responsibilities as Lead ID, Chairman of AC, Chairman of RC and member of NC of the Company.” It was also announced that the NC is not recommending the appointment of Mr Chia and the Board (save for Mr Lo) considers Mr Chia to be independent.
- (i) To provide details of why the NC does not recommend the appointment of Mr Chia.

Company’s Response to Question 1(a)(i)

Firstly, it should be noted that Mr Lo only reiterated the views of the previous NC, then comprising himself and Mr Ross Yu Limjoco (“**Mr Limjoco**”) (who was voted out the day before on 28 October 2021) (the “**Previous NC**”), in the announcement on Mr Chia’s appointment.

Mr Chia **was first floated as a potential candidate by the Previous NC** (as duly minuted in internal documents). Further to the Sponsor’s own diligence and background check, the Previous NC became aware of Mr Chia’s directorships in certain issuers where such issuers had been the subject of various special audits and/or investigations (“**Concerns**”). The Sponsor submitted all its detailed findings and concerns to the Board prior to 29 October 2021 (then the Board comprised Mr Ip Kwok Wing (“**Mr Ip**”), Mdm Lim Fong Li Janet (“**Mdm Lim**”), Mr Lo and Mr Limjoco) as well as the Previous NC and later again to the Executive Directors, being Mr Ip and Mdm Lim (“**Executive Directors**”), and to Mr Lo (who was the sole member of the NC at the relevant time), advised them to take those into consideration to determine carefully Mr Chia’s suitability as a Lead Independent Director given the same. Particularly, the Previous NC noted, and later, Mr Lo again noted and considered the Sponsor’s assessment of Mr Chia, including, *inter alia*, that:

- (a) nothing had come to the Sponsor’s attention to suggest that Mr Chia is not qualified to act as director (based on publicly available documents and representations from Mr Chia);

- (b) the Concerns mentioned above; and
- (c) given the above (including, *inter alia*, representation and confirmation from Mr Chia on his independence and declarations provided which was subsequently announced) and subject to the Concerns mentioned above, nothing has come to Sponsor's attention to suggest that Mr Chia may not be suitable to act as Lead Independent Director of the Company.

That said, the Previous NC still considered Mr Chia to be unsuitable and had withdrawn their nomination of him prior to 4 October 2021.

The Executive Directors (excluding Mr Lo) subsequently confirmed to the Sponsor that having considered the above, the Board is satisfied with Mr Chia's suitability as a Lead Independent Director.

On this, Mr Lo wishes to add the following:

"The withdrawal was on the basis of the SGX-ST's Regulation's requirement that:

"In determining suitability of potential directors, NCs are required to perform stringent due diligence on candidates. Such due diligence should extend to whether each directorship candidate has fully discharged his/her duties and obligations during his/her previous directorship of an SGX-listed company, and whether a candidate had previously served on the board of companies with adverse track records or a history of irregularities."

As the Previous NC did not have the resources to perform the "stringent due diligence" required, and also considering that it had interviewed and recommended three (3) other candidates who were either as or more qualified than Mr Chia for the consideration of the appointment, the Previous NC therefore withdrew the recommendation of Mr Chia.

However, it should be noted that the Executive Directors did not interview any of three (3) candidates recommended by the Previous NC before 4 October 2021 (being the expiry date for the appointment to be made). There was also no discussion with the Previous NC as to why these other candidates were not suitable, or why the Executive Directors wished to persist in appointing Mr Chia (despite the Previous NC's reservations), with such disagreement ultimately resulting in the Executive Directors requesting for the resignation of both Mr Limjoco and Mr Lo."

To the foregoing, the Executive Directors wish to express their disagreement with Mr Lo's various assertions, particularly:

- (i) the Executive Directors did not consider it necessary to incur additional costs – they are of the view that this would not have created any shareholder value, especially when they had separately reviewed Mr Chia's involvement with the aforementioned issuers, and reached the conclusion that their various issues were unconnected with him or his appointment therein. On his independence, Mr Chia had also confirmed to the Company that he is not involved in any manner with the management or the vendors of SSMM and that he is independent within the definition of the Code of Corporate Governance (the "**Code**") promulgated by the Monetary Authority of Singapore (the "**MAS**") which applies to listed companies on a comply-or-explain basis;
- (ii) the Executive Directors do not agree that the other three (3) candidates recommended by the Previous NC were equally or more qualified than Mr Chia – the Executive Directors had considered each of their profiles but reached a different conclusion from the Previous NC. The Executive Directors also wish to highlight that they did, at the Sponsor's suggestion, interview two (2) of the NC's other proposed candidates on 10 October 2021, which confirmed their views. Had they reached a different one, they would have withdrawn the proposed appointment of Mr Chia; and
- (iii) the Executive Directors consider the appointment of Mr Chia and Mr Teo to be in the best interest of the Company, and that the continued appointments of both Mr Limjoco and Mr Lo are inconsistent with their appointments – the Executive Directors do not see how the Board

will be able to effectively and efficiently operate and discharge its collective obligations when half of its Independent Directors have expressed strong and unwarranted views (in the eyes of the Executive Directors and the new Independent Directors) against each of Mr Chia and Mr Teo.

- (ii) **To provide details on why Mr Lo did not concur with the Board's assessment of Mr Chia's competencies and experience as well as his independence.**

Company's Response to Question 1(a)(ii)

The Previous NC did not recommend Mr Chia's appointment because of the "poor compliance track record by certain companies in which Mr Chia was an independent director" detailed in (b) above, and not because of an issue with his competence and experience. Indeed, this is duly minuted in internal documents along with the observation that "the [Previous] NC was not able to establish his independence (or otherwise) from the management or from the vendors of SSMC" (SSMC being a reference to SING-SWE MM Biotechnology Pte. Ltd. (from hereon, "**SSMM**"), which the Company is in the midst of acquiring as previously announced).

Mr Lo has confirmed the above response, and wishes to add the following:

"As mentioned above, the Previous NC did not have the resources to perform the "stringent due diligence" required. Accordingly, the Previous NC was unable to verify that the poor compliance track record by certain companies in which Mr Chia was an independent director was not attributable to him. Similarly, the Previous NC was unable to establish his independence (or otherwise) from the management or from the vendors of SSMM."

To the foregoing, the Executive Directors wish to again express their view that they did not consider it necessary to incur the additional costs – they are of the view that this would not have created any shareholder value, especially when they had separately reviewed Mr Chia's involvement with the aforementioned issuers, and reached the conclusion that their various issues were unconnected with him or his appointment therein. On his independence, Mr Chia had also confirmed to the Company that he is not involved in any manner with the management or the vendors of SSMM and that he is independent within the definition of the Code.

- (iii) **To provide details of why the Board proceeded to appoint Mr Chia despite the fact that the NC does not recommend such appointment?**

Company's Response to Question 1(a)(iii)

Notwithstanding this withdrawal by the Previous NC of its nomination of Mr Chia, the Executive Directors of the Company, Mr Ip and Mdm Lim (who were, prior to the appointment of each of Mr Chia and Teo on 29 October 2021, the only other Directors of the Company apart from Mr Lo at the time of their appointment), subsequently confirmed to the Sponsor that having considered the above, they are satisfied with Mr Chia's suitability as a Lead Independent Director.

Apart from the fact that the Executive Directors consider Mr Chia to have extensive experience in corporate finance, along with numerous relevant professional qualifications, the Executive Directors proceeded to appoint Mr Chia despite the views of the Previous NC and later, Mr Lo, because they had, after separately reviewing Mr Chia's involvement with the aforementioned issuers, reached the conclusion that their various issues were unconnected with him or his appointment therein. On his independence, Mr Chia had also confirmed to the Company that he is not involved in any manner with the management or the vendors of SSMM and that he is independent within the definition of the Code.

The Board also wishes to highlight that Mr Chia is currently an independent director on the board of several prominent issuers, including mm2 Asia Limited, Ying Li International Real Estate Limited ("**Ying Li**") and CDW Holding Limited. Any allegations as to his good standing should be considered in this light.

Mr Lo wishes to add the following:

“Even if it is acceptable for the Executive Directors to disregard the views of the NC, it is unclear whether the Executive Directors have themselves undertaken “stringent due diligence” on Mr Chia in accordance with the SGX-ST’s Regulation’s requirement set out above.”

To the foregoing, the Executive Directors, and even Mr Teo, wish to state that they have considered, Mr Chia’s involvement with the aforementioned issuers. They are of the view that they have each done the requisite stringent due diligence.

(b) SGX RegCo notes that Mr Chia is / was a director of issuers which were the subject of special audit / investigations due to irregularities / adverse developments. Some of the issuers have since been delisted and some are as follows:

- **Mr Chia was the director of Debao Property Development Ltd (“Debao”) from May 2013 to March 2021. Debao announced on 12 November 2018, appointment of independent reviewer to look into undisclosed acts of bribery in which the then CEO of Debao was found guilty by the Court in China and imprisoned; as well as payments made by Debao’s subsidiaries to a political party in Malaysia. Debao’s auditors had issued disclaimer of audit opinions for its FY2017, FY2018 and FY2019 annual reports due to, amongst others, concerns on the above. Debao has also not released its FY2020 annual report for the financial year ended 31 December 2020.**
- **Mr Chia was the director of Shanghai Turbo Enterprises Ltd (“Shanghai Turbo”) from Feb 2008 to June 2020. In the FY2019 annual report, the auditors was unable to satisfy itself as to the economic substance and propriety of certain debt collection agent fees incurred by a subsidiary and the Chinese Public Security Authorities has since launched an investigation into the matter. As a result of this and other matters, the auditors issued disclaimer of audit opinions for its FY2019 and FY2020 annual reports.**
 - (i) **Please provide the Board’s considerations on why despite Mr Chia’s past track record of being on the board of companies with issues on irregularities / investigations / adverse developments, the Board is of the view that Mr Chia is suitable to be appointed to the board of CFM. Please provided details bases.**

Company’s Response to Question 1(b)(i)

As mentioned above, the Executive Directors had reviewed Mr Chia’s involvement with certain issuers, including Debao and Shanghai Turbo, and had interviewed him on the same.

In relation to Debao, Mr Chia has explained that he was unaware of and uninvolved in the relevant acts of the then CEO, and that he, just like most others, could not possibly have known about the actions of a rogue actor. Conversely, as soon as the same came to light, he actively participated in the investigation as a good independent director and sought to safeguard the Company’s interest.

In relation to Shanghai Turbo, there was an administrative mistake in Mr Chia’s declaration – Mr Chia had actually stepped down as Non-Executive Chairman on 1 October 2018. Accordingly, Mr Chia was no longer with Shanghai Turbo at the relevant time and is in no position to comment on the aforementioned.

Additionally, Mr Chia has confirmed that, as an independent director of both Debao and Shanghai Turbo, he is/was not involved in their day-to-day operations and had not been aware or involved in the foregoing. Importantly, he has not assisted or was subjected to any regulatory investigations and/or proceedings pursuant to his independent directorship in both companies.

In light of the above, the Executive Directors consider the appointment of Mr Chia to be uncontroversial and that the Company would benefit from his experience and expertise – that just two (2) of the many companies he is involved in had some issues can scarcely be considered as a “track record of being on the board of companies with issues on irregularities / investigations / adverse developments”. Indeed, the Board wishes to highlight that Mr Chia is currently an independent director on the board of several prominent issuers, including mm2 Asia Limited, Ying Li International Real Estate Limited and CDW Holding Limited.

- (ii) **Why did Mr Chia indicate “No” to all the questions in the statutory declaration as announced in his appointment template of 29 Oct 2021.**

Company’s Response to Question 1(b)(ii)

Mr Chia has explained that the reason he indicated “no” to all the questions is because none of the foregoing fall within the ambit of the same. Specifically, while at first brush the issues concerning Debao seem to fall within (j)(i) (“whether he has ever, to his knowledge, been concerned with the management or conduct, in Singapore or elsewhere, of the affairs of:- (i) any corporation which has been investigated for a breach of any law or regulatory requirement governing corporations in Singapore or elsewhere”), it should be noted that they are not investigations for a breach of any law or regulatory requirement **governing corporations** (they concerned the then CEO).

Question 2

Appointment of Independent Director, Teo Kian Huat (“Mr Teo”)

It is announced that “The Board (save for Mr Lo), is satisfied that Mr Teo possesses the requisite competencies and experience to assume the responsibilities as Non-Executive Independent Director, member of NC, AC and RC.” It is also announced that the NC has not recommended nor endorsed the appointment of Mr Teo due to his lack of experience as a listed company director, and that he was recommended for appointment by the introducer of the Sing-Swe MM Biotechnology (“SSMM”) acquisition. The Board (save for Mr Lo) considers Mr Teo to be independent.

- (a) To provide details of why the NC does not recommend the appointment of Mr Teo.

Company’s Response to Question 2(a)

As mentioned above, Mr Lo only reiterated the views of the Previous NC, then comprising himself and Mr Limjoco (who was voted out the day before on 28 October 2021), in the announcement on Mr Teo’s appointment.

Further to the Sponsor’s own diligence and background check, Mr Lo (who was the sole member of the NC at the relevant time) noted and considered the Sponsor’s assessment of Mr Teo, including, *inter alia*, that:

- (a) nothing had come to the Sponsor’s attention to suggest that Mr Teo is not qualified to act as director (based on publicly available documents and representations from Mr Teo);
- (b) Mr Teo had no prior experience as director of a listed company and he will be subject to the Mandatory Training as prescribed in the Catalist Rules;
- (c) Mr Teo’s working experience;
- (d) Mr Teo was introduced by, *inter alia*, the introducer of SSMM, which the Company is in the midst of acquiring as previously announced;

- (e) Mr Teo had confirmed his independence and that there is no conflict of interest. Mr Teo also highlighted during the interview with the Sponsor that he does not think that his acquaintance with the aforementioned introducer affects his independence); and
- (f) given the above (including, *inter alia*, representation and confirmation from Mr Teo on his independence and declarations provided which was subsequently announced) and subject to the concerns above, and Mandatory Training to be followed, nothing has come to Sponsor's attention to suggest that Mr Teo may not be suitable to act as Independent Director of the Company. The Sponsor submitted all the detailed findings and concerns to the then Board and the NC and advised them to take these into consideration to determine carefully Mr Teo's suitability as an given the concerns.

That said, Mr Lo still considered Mr Teo to be unsuitable (please see below for details on why the NC does not recommend the appointment of Mr Teo).

The then Board (being the Executive Directors, Mr Ip and Mdm Lim, excluding Mr Lo) subsequently confirmed to the Sponsor that having considered the above, the Board is satisfied with Mr Teo's suitability as an Independent Director.

- (b) To provide details on why Mr Lo did not concur with the Board's assessment of Mr Teo's competencies and experience as well as his independence.**

Company's Response to Question 2(b)

The Previous NC did not recommend his appointment due to the fact that he has no experience as a listed company director, and not because of any other issue with his competence and experience.

Mr Lo wishes to add the following:

"No one is able to confirm definitively at this juncture, whether a new appointee will act independently or not in the future. However, in view of the ongoing acquisition of SSMM which may result in a change of control of the Company, it is important that there should be a strong element of independence to ensure that minority interests are protected.

In this light, it is unclear to me why the existing Independent Directors are being removed (either voted out as in the case of Mr Limjoco, or requested to resign (in my case)) in order to persist with the appointments of each of Mr Chia and Mr Teo (even though there were other equally or more qualified candidates presented to the Executive Directors for consideration)."

To the foregoing, the Executive Directors wish to express their disagreement with Mr Lo's various assertions, particularly:

- (i) the Executive Directors consider the Previous NC's outright rejection of Mr Teo to be preliminary and unwarranted – as Mr Lo states, "no one is able to confirm definitively at this juncture, whether a new appointee will independently or not in the future". That being said, whereas the Previous NC's discomfort derives merely from the fact that Mr Teo had been introduced by the introducer of SSMM, the Executive Directors are relying on a positive confirmation of independence by Mr Teo, who has also confirmed that he has no dealings or otherwise with SSMM; and
- (ii) the Executive Directors consider the appointment of Mr Chia and Mr Teo to be in the best interest of the Company.

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- (c) To provide details of why the Board proceeded to appoint Mr Teo despite the fact that the NC does not recommend such appointment?**

Company's Response to Question 2(c)

The Board wishes to highlight that every listed company director was, at some point until his/her first appointment, not a listed company director – that Mr Teo lacks this experience should not be an indictment of his ability to discharge the role. Indeed, the Singapore Institute of Directors runs the Listed Entity Director Programme to support such persons.

With regard to his independence, the Executive Directors consider Mr Teo to be independent, and indeed, it was duly minuted in internal documents that “he has no connection with current management or the vendors of SSMC [SSMM]”. While it is true that Mr Teo was first floated by the introducer of SSMM, the Executive Directors of the view that it does not affect his independence for the following reasons:

- (a) if the mere fact that a loss of independence can be brought about by a mere recommendation by a person with whom an issuer has an ongoing relationship or transaction, then any such person who wants to exclude a particular candidate from being elected to a board need only float his name; and
- (b) more importantly, Mr Teo had confirmed to the Company that he is not involved in any manner with the management or the vendors of SSMM and that he is independent within the definition of the Code.

The Executive Directors consider Mr Teo to have extensive relevant experience given his 25 years in the fields of auditing, accounting, corporate finance and fund management fields, and to be more than qualified for his appointment. The Board also notes that he has been a representative and/or director of various MAS Capital Markets Services Licensees. Accordingly, the Executive Directors, decided to proceed with his appointment despite Mr Lo's views.

Question 3

Please set out the NC's considerations in assessing suitability of directorship / Lead ID / AC Chairman candidates and efficacy of the board as a whole. Please set out the Board's considerations on the same assessment, if different from that of the NC's.

Company's Response to Question 3

The Previous NC's considerations were:

- (a) sound technical grounding in audit, accounting and finance, preferably with accountancy degree and initial work experience in audit firm;
- (b) substantial work experience should relate to audit, accounting, finance or investment banking;
- (c) as the position is that of a Lead Independent Director, should have previous experience as independent director of other Singapore listed companies;
- (d) the position is also that of an audit committee (“**AC**”) chairman, therefore should have previous experience as AC chairman of other listed companies;
- (e) should not be under investigation or be involved with too many companies with poor compliance track record;
- (f) as the Company is in the midst of making a major acquisition, the person should be independent and seen to be independent of the target company (i.e. SSMM) and its related persons; and

- (g) the AC chairman and Lead Independent Director must be seen as independent from the controlling shareholders.

The Board's considerations were (are) the same save that the Executive Directors are of the opinion that it may not necessarily be a bad thing for an independent director to be involved in companies with poor compliance track records, which are attributable to the companies and not the fault of the independent directors. In fact, it sharpens the independent directors' skillset over time. The Previous NC disagreed with this view as:

- (i) it is not in accord with SGX requirements; and
- (ii) in applying this to Mr Chia, the Previous NC will require evidence that the poor compliance track record of a company was not contributed by him during his tenure there.

In any event, as mentioned above, the Executive Directors are of the view that that just two (2) of the many companies Mr Chia is involved in has had some issues can scarcely be considered as a "track record of being on the board of companies with issues on irregularities / investigations / adverse developments".

The Board (save for Mr Lo) wishes to highlight that the appointments of Mr Chia and Mr Teo meet the considerations of the Previous NC set out above.

Question 4

It was stated in ex-ID Mr Ross Yu Limjoco's ("Mr Ross") cessation announcement of 28 Oct 2021 that he was asked to step down after the NC (comprising Mr Ross and Mr Lo) raised disagreement with the Board on potential ID candidates nominated by management.

- (a) To detail the concerns raised by the NC and the disagreements between management (or the executive directors) and the NC.**

Company's Response to Question 4(a)

Save for what Mr Lo has stated in this announcement, he does not wish to add anything further, including responses to the comments by the other Directors, some of which he disagrees with.

- (b) Are there other disagreements, such as in relation to proposed appointments of IDs / SSMM due diligence and proposed acquisition, to be brought to the attention of the shareholders?**

Company's Response to Question 4(b)

Please refer to **Appendix A**. This has been separated out due to its length.

Directors' Responsibility Statement

The Directors collectively and individually accept full responsibility for the accuracy of the information given in this announcement and confirm after making all reasonable enquiries, that to the best of their knowledge and belief, this announcement constitutes full and true disclosure of its understanding, the Company and its subsidiaries and the Directors are not aware of any facts the omission of which would make any statement in this announcement misleading. Where information in this announcement has been extracted from published or otherwise publicly available sources or obtained from a named source, the sole responsibility of the Directors has been to ensure that such information

has been accurately and correctly extracted from those sources and/or reproduced in this announcement in its proper form and context.

The Directors further confirm, both collectively and individually, that all material information has been disclosed to allow trading in the Company's securities to continue.

BY ORDER OF THE BOARD

Lim Fong Li Janet
Executive Director and Chief Executive Officer
12 November 2021

*This announcement has been reviewed by the Company's Sponsor, Asian Corporate Advisors Pte. Ltd. (the "**Sponsor**"). It has not been examined or approved by the Singapore Exchange Securities Trading Limited (the "**Exchange**") and the Exchange assumes no responsibility for the contents of this announcement, including the correctness of any of the statements or opinions made or reports contained in this announcement.*

The contact person for the Sponsor is Ms. Foo Quee Yin, at 160 Robison Road, #21-05 SBF Center, Singapore 068914; telephone number: 6221 0271.

Appendix A

Company's Response to Question 4(b)

Mr Lo wishes to bring to the attention of the shareholders his views on the following.

Issue 1: No Legal Due Diligence ("DD") was Conducted Before Entry into the Sale and Purchase Agreement ("SPA") for the SSMM Acquisition

Mr Lo wishes to highlight that in relation to the SSMM acquisition, proper financial and legal DD should have been done before the signing of the SPA. This is because prior DD can reveal fundamental issues which may cause the Board to reconsider whether to even proceed with the deal, lower the valuation/consideration payable, and/or surface other necessary protection mechanisms to be incorporated in the transaction documents. Though these issues can be discovered in a DD after the signing of the SPA, further unnecessary costs/time will have to be incurred re-negotiating the SPA to address the shortcomings discovered. The entire Board at that time did not have the benefit of any substantive discussions on the business, the strategy, the risks, the valuation of SSMM, etc. or the overall future business plan or strategy of the Company.

Executive Directors' Response: It is not unusual and in fact fairly common for companies, including listed companies, to execute sale and purchase agreements prior to the completion of financial and legal DD. A preliminary review of recent public announcements by listed companies such as Enviro-Hub Holdings Ltd., OIO Holdings Limited and Sinopipe Holdings Limited showed that these companies executed binding agreements for acquisitions prior to the conduct of DD (and conversely no recent public announcements where agreements were entered into after conduct of DD). It should also be noted that the full Board gave consent for the execution of the SPA, which presumably indicates support for the acquisition in its current form and format.

Further, it should be noted that any issues uncovered during the DD would be dealt with in the usual manner, either: (1) as a breach of one of the extensive standard warranties given by the vendors of SSMM, which would give rise to a legal claim against the relevant warrantor and/or the Company's right to terminate the SPA; or (2) if capable of remedy and depending on its materiality, as an additional obligation to address such issue prior to or after completion, to be executed in a subsequent supplemental agreement to the SPA.

Finally and on a related note, it should be highlighted that, at the suggestion of the Company's counsel, ZICO Insights Law LLC, a clause was included in the current SPA that gave the Company added protection – the clause stipulated that the net profit after tax ("**NPAT**") recorded by SSMM, to be used for the determination of the consideration payable to the vendors of SSMM, had to exclude account receivables and only include revenue that has been collected and realised. This was to be made by the Company at its reasonable discretion, with the assistance of its professional advisers.

In summary, it is erroneous to claim that the Company is somehow precluded or deprived of protection simply because the SPA is executed prior to the conduct of DD.

Mr Lo's Further Response: Even if there are examples in the market (of not having prior DD), it does not mean that it is common practice, and even if it is a common practice, it does not mean that it is acceptable for the Company to adopt. There may be very good reasons why the aforementioned examples dispensed with DD prior to signing the SPA – it could be that the target business has an established track record of more than just 6 months (as in the case of SSMM) or that the target business is an integral part of the acquiror's core business of which the acquiror already has a deep understanding or that the acquiror already partially owns a stake in the target and wishes to acquire the balance.

SSMM is involved in a new business of distributing antigen test kits and only has a track record of 6 months, and which after completion gives the SSMM vendors a stake of up to 37% in the Company. Should this type of acquisition not be deserving of a higher standard of prudence of prior DD? Even if we accept that DD can be done after the signing of the SPA, should DD not be more detailed and comprehensive?

In any case, it was not explained to the full Board why in this case it is acceptable risk to proceed with the signing of the SPA before any DD is done. The Executive Directors do not represent the full Board and their personal interest as controlling shareholders may not necessarily be aligned with the interests of minority shareholders, especially in the case of a Reverse Takeover (“RTO”).

The Independent Directors acquiesced to the signing of the SPA only because the Executive Directors promised a full and proper DD (with the involvement of one of the “Big 4” international public accounting firms) after the signing of the SPA.

Finally, even if there is recourse to the SPA, it should not detract from the need for proper DD (whether before or after the signing of SPA) which is a common practice for mergers and acquisitions. This is especially important for a public-listed company where a RTO transaction is involved. It is not just a case of not having a DD prior to SPA signing. It is a combination of:

- (a) not having DD before SPA signing;
- (b) not having a comprehensive DD, including foreign DD, after the SPA signing; and
- (c) the full Board not being adequately advised as a whole of the risks, with instructions from the Executive Directors and controlling shareholders (whose interest in a RTO may not be aligned with minority shareholders).

For the avoidance of doubt, Mr Lo agrees that though the current transaction is structured such that the RTO rules may not be applicable, however, he wishes to highlight that shareholders should be prepared for the SSMM acquisition to be a first step leading to an ultimate change of control of the Company and core business.

Executive Directors’ Further Response: The Company has not seen any recent announced examples of an acquisition by a SGX-listed company where the DD was completed prior to the signing of the SPA. In any case, it has not been clearly explained (given the circumstances of the actual comprehensive legal DD conducted, the important conditions precedent in the SPA, the earn-out structure and other disclosed safeguards with regards to the computation of the consideration) what kind of prejudice is suffered by the Company. Shareholders are to note that the present transaction is not a RTO and would not have required shareholder approval but for the issuance of consideration shares, as none of the relative figures computed under Rule 1006 of the Catalist Rules exceeds 75%.

The Board (including the Independent Directors) as a whole approved the signing of the SPA. As already disclosed earlier, comprehensive legal DD was and has been conducted, and such process is still ongoing, with the latest being the Board’s decision to extend such DD into foreign law elements of the transaction. It is unclear why the ongoing DD process is deficient. Please refer to the discussion below with regard to the comprehensive scope of the ongoing DD process and the alleged RTO transaction.

Finally, with regard to Mr Lo’s last comment, after the announcement of the SPA, the Company’s shares traded to a high of S\$0.380, up from S\$0.0687 on 28 May 2021 (being the last full market day on which the Company’s Shares were traded prior to the execution of the SPA), and has been trading, generally, between S\$0.17 to S\$0.18 since 1 November 2021. The Executive Directors note that the fact that the transaction will result in an issue of controlling interest (defined in the Catalist Rules as an interest of a shareholder who holds directly or indirectly 15% or more of the nominal amount of all voting shares in the company) had been disclosed in the SPA announcement dated 3 June 2021, and that the transfer of controlling interest was a condition precedent to the completion of the SPA. As such, any minority shareholder not in favour of the acquisition and the transfer of controlling interest could have exited their investment in the Company by selling his or her shares in the open market.

Issue 2: Sufficiency of the Financial DD for the SSMM Acquisition

Mr Lo wishes to highlight that though a comprehensive DD was promised after the signing of the SPA (supposedly with the involvement of one of the “Big 4” international public accounting firms), the financial DD was merely an “agreed upon audit procedure” to be performed by the Company’s auditor Baker Tilly (“BT”). This procedure only covers vouching of revenue to sales invoices on sample basis, collections of revenue, expenses related to ordinary business and calculation of NPAT from 7 May 2021 to 31 July 2021. The agreed upon procedures do not provide assurance that the NPAT is true and fair. The then Independent Directors therefore insisted on a proper financial DD to be undertaken by BT on SSMM. BT was engaged on 6 August 2021 to perform financial DD on the SSMM from 7 May 2021 to 31 July 2021. A full draft report was issued by BT on 13 August 21 (“**Draft FDD Report**”). BT is expected to provide an updated report to the Company as the cut-off date has been extended to 30 September 2021 and further information has been provided by SSMM since the Draft FDD Report was issued.

Executive Directors’ Response: The Company has appointed BT on 6 August 2021 to perform a financial DD on SSMM for the period covering 7 May 2021 to 31 July 2021. A full draft report was issued by BT on 13 August 2021. The BT financial DD scope of work is focused on understanding the business model of SSMM, the accounting policies and practices, quality of earnings, computation of the NPAT per the basis specified in Clause 2A.1(a) to (c) of the SPA and commenting on the key assumptions for the business plan prepared by SSMM. The Company has engaged BT to extend their scope of work up to 30 September 2021 due to the change in the cut-off period and an updated report will be issued once they have completed their DD.

Mr Lo’s Further Response: Please note that this appointment of BT with more extensive scope of work was at the insistence of the Independent Directors, in response to a mere “agreed upon audit procedure” first suggested.

Issue 3: Sufficiency of the Legal DD for the SSMM Acquisition

Mr Lo wishes to highlight that the legal DD was similarly insufficient, and based on a “simplified legal DD exercise on the Singapore-incorporated entities of SSMM and its subsidiaries (if any), by coordinating and examining the source documents, and issuing Singapore DD report(s) on the same”. No foreign legal DD was recommended by the Company’s counsel, despite the fact that all other aspects of the business (shareholders, manufacturer, distributor, sub-distributor, customers, etc) are foreign, and it did not advise the Board on the necessity for any foreign legal DD. The then Independent Directors, in consultation with Harry Elias Partnership, requested for foreign legal DD to be done and the foreign DD checklist has been forwarded to the Executive Directors for their instruction to the Company’s counsel.

Executive Directors’ Response: The scope of the actual legal DD carried out is usual for an acquisition of this nature. This includes, *inter alia*, extensive checks on the following matters:

- (a) good standing and authority of SSMM;
- (b) review of the constitution of SSMM;
- (c) validity of the appointments and/or resignations of the directors, chief executive officers, secretaries, and auditors of SSMM (where so applicable);
- (d) share capital and shareholders of SSMM;
- (e) allotment and issuance, and transfers of, shares in the capital of SSMM;
- (f) borrowings and indebtedness of SSMM;
- (g) material contracts executed by SSMM;
- (h) intellectual property and permits and approvals of SSMM;
- (i) material employment or service agreements of SSMM; and
- (j) litigation and insolvency matters involving SSMM.

While the legal DD report is currently still in its draft form and has not been issued, the latest draft copy stands at 68 pages. Accordingly, based on the existing report and actual DD carried out, the legal DD conducted on SSMM has been anything but simplified.

With regard to foreign legal DD, the Company’s counsel, ZICO Insights Law LLC, has conducted public searches on SSMM’s customers and is currently in discussion with the Executive Directors on the possibility of obtaining foreign legal opinions on certain material agreements that have been expressed to be subject to governing laws other than Singapore, and in this regard, has obtained preliminary indicative quotes from suitable foreign law firms thereon. The issue of conducting foreign DD is currently still under discussion between the Executive Directors and ZICO Insights Law LLC, as at the end of the day it is a cost-benefit analysis for the Company. For instance, it is not clear that the Company would benefit from obtaining an enforceability opinion with respect to the sales contracts that SSMM had entered into with its customers if such sales contracts have already been completed.

Mr Lo’s Further Response: Other than SSMM, a newly incorporated Singapore entity incorporated on 7 May 2021, everything else is foreign - shareholders, manufacturer, distributor, sub-distributor, customers, etc. Should there not be more substantive foreign DD, especially when the business is likely to be the Company’s core business after completion? If there is any “cost-benefit” analysis, should it just involve the Executive Directors, and not the rest of the IDs, especially where this is a RTO (and the Executive Directors’ interest may not be completely aligned with that of the minority)? In any case, Mr Lo is happy to note that the Company is finally agreeing with the previous Independent Directors to look at the foreign aspects of the DD, instead of merely focusing the DD on the Singapore company (SSMM) which has only been in existence for 6 months.

Executive Directors' Further Response: It is unclear why the ongoing DD process is deficient. Please refer to the Company's earlier response with regard to the comprehensive scope of the ongoing DD process and the alleged RTO transaction.