

**REPORT OF THE
MARKET MISCONDUCT TRIBUNAL
OF HONG KONG**

on whether a breach of the disclosure requirements has taken place
in relation to the listed securities of

CMBC Capital Holdings Limited
(formerly known as Mission Capital Holdings Limited)

(Stock Code 1141)

and other related questions

The Report of the Market Misconduct Tribunal on whether a breach of the disclosure requirements has taken place in relation to the listed securities of

CMBC Capital Holdings Limited
(formerly known as Mission Capital Holdings Limited)

A report pursuant to section 307(J)1(a) and (b) of the Securities and Futures Ordinance, Cap. 571

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CHAPTER 1

OVERVIEW

The issue of the SFC Notice

1. On 26 November 2018, the Market Misconduct Tribunal (“the Tribunal”) received a Notice from the Securities and Futures Commission (“the SFC”) requiring the Tribunal to conduct proceedings in order to determine whether there had been a breach of the disclosure requirements within the meaning of sections 307B and 307G of Part XIVA of the Securities and Futures Ordinance, Cap 571 (“the Ordinance”). The Notice issued by the SFC is attached to this report marked Annexure “A”.

The Specified Persons

2. One limited company and six individuals were specified by the SFC in the Notice as being subject to the inquiry. They were:

- (a) CMBC Capital Holdings Limited (formerly known as Mission Capital Holdings Limited, a company listed on the Main Board of the Stock Exchange of Hong Kong which, together with its subsidiaries was principally engaged in securities investment, short-term loan financing and trading in tangible assets such as metals, timber and recyclable materials (“the Company”).

(b) The six individuals were each “officers” of the Company as defined in section 1, Part 1 of Schedule 1 to the Ordinance¹.

They were –

(i) Suen Yick Lun Philip (‘Philip Suen’), the 2nd Specified Person, who in July 2014 was appointed an executive director and the Company Secretary and who from 31 October 2014 was appointed Chief Executive Officer (‘CEO’).

(ii) Suen Cho Hung Paul (‘Paul Suen’), the 3rd Specified Person, was the Chairman and an executive director of the Company.

(iii) Lau King Hang, the 4th Specified Person, was an Executive Director of the Company.

(iv) Huang Zhencheng, Weng Yixiang and Wong Kwok Tai, the 5th, 6th and 7th Specified Persons, were each independent non-executive directors of the Company.

The principal business of the Company

3. At all times relevant to this Report, the financial performance of the Company was principally driven by its securities investment business. By way of illustration, out of a total net profit before taxation of HK\$417,153,000 recorded

¹ An “officer” is defined in the following terms:

- (a) in relation to a corporation, means a director, manager or secretary of, or any other person involved in the management of, the corporation; or
- (b) in relation to an unincorporated body, means any member of the governing body of the unincorporated body.

in the 2013/2014 Annual Report, the securities investment business had secured a profit in excess of HK\$417,000,000.

4. Philip Suen, an executive director, was the person principally responsible for the Company's securities investment business.

5. The Company's securities portfolio was held through a wholly-owned subsidiary, the Xin Corporation (HK) Limited ('the Xin Corporation'). Philip Suen, as an executive director of the Company, would receive daily statements from the Company's brokers. According to the Operational Manual of the Company, Philip Suen was the one responsible for keeping track of economic conditions generally and fluctuating share prices in particular in order to guide the investment strategies of the Company. Put in plain language, he was the one with 'his hands on the wheel'.

Relevant provisions of the Ordinance

6. Section 307B of the Ordinance lays down a listed corporation's disclosure requirements, namely, as soon as reasonably practicable after any 'inside information' has come to its knowledge, to disclose that information to the market. The subsection reads:

- “(1) A listed corporation must, as soon as reasonably practicable after any inside information has come to its knowledge, disclose the information to the public.
- (2) For the purposes of subsection (1), inside information has come to the knowledge of a listed corporation if—
 - (a) information has, or ought reasonably to have, come to the knowledge of an officer of the corporation in

the course of performing functions as an officer of the corporation; and

- (b) a reasonable person, acting as an officer of the corporation, would consider that the information is inside information in relation to the corporation.”

7. The concept of ‘inside information’ is well established. In the present context, it is specific information about a listed corporation that is not generally known to the persons accustomed to, or likely to, deal in the listed securities of the corporation but would, if generally known to them, be likely to materially affect the price of those securities. Section 307A(1) defines ‘inside information’ as follows:

“Inside information, in relation to a listed corporation, means specific information that–

(a) is about–

- (i) the corporation;
- (ii) a shareholder or officer of the corporation; or
- (iii) the listed securities of the corporation or their derivatives; and

(b) is not generally known to the persons who are accustomed or would be likely to deal in the listed securities of the corporation but would if generally known to them be likely to materially affect the price of the listed securities”.

8. Section 307C prescribes the manner in which inside information must be disclosed, namely, that it must be made in a manner that enables the market to

have equal, timely and effective access to that inside information. The subsection reads:

- “(1) A disclosure under section 307B must be made in a manner that can provide for equal, timely and effective access by the public to the inside information disclosed.
- (2) Without limiting the manner of disclosure permitted under subsection (1), a listed corporation complies with that subsection if it has disseminated the inside information required to be disclosed under section 307B through an electronic publication system operated by a recognized exchange company for disseminating information to the public.”

9. Section 307G lays down the circumstances in which an officer of a listed corporation – an officer including a director or manager – will be held to be in breach of the disclosure requirements. This includes a failure generally to take reasonable measures to ensure that effective safeguards exist. The subsection reads:

- “(1) Every officer of a listed corporation must take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of a disclosure requirement in relation to the corporation.
- (2) If a listed corporation is in breach of a disclosure requirement, an officer of the corporation—
 - (a) whose intentional, reckless or negligent conduct has resulted in the breach; or

- (b) who has not taken all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach,

is also in breach of the disclosure requirement.”

The mandate given to the Tribunal

10. The Tribunal was required by the Notice to conduct proceedings in order to determine the following, namely –

- (a) whether, in respect of inside information coming into possession of the Company, a breach of the disclosure requirements had taken place; and, if so,
- (b) the identity of any person found to be in breach of those requirements.

The factual background

11. The asserted factual basis upon which the SFC directed that an inquiry should take place is set out in detail in the Notice itself. In addition, and of central importance to this Report, during the course of the proceedings the SFC was able to reach agreement with the Specified Persons as to the relevant facts. This was evidenced in two statements of agreed facts, first, with the Company itself in March 2020 and, second, with the officers of the Company, that is, the 2nd through to the 7th Specified Persons, in September 2020. The statement of agreed facts signed by the SFC and the Company is attached to this report marked Annexure “B”. The statement of agreed facts signed by the SFC and the 2nd to 7th Specified Persons is attached to this report marked Annexure “C”.

12. In both statements of agreed facts it was accepted that, in respect of certain internal management accounts, known as the 'August Management Accounts', the Company had come into possession of inside information.

13. The following constitutes a broad overview of the uncontested facts drawn from the Notice and the two statements of agreed facts –

- (i) Towards the end of 2013, the Company announced its interim results for the six months ended 30 September 2013. These interim results recorded an overall loss (before taxation) of HK\$12,030,000. Significantly, the results also recorded a loss in the Company's securities investment segment of HK\$14,347,000.
- (ii) On 26 June 2014 – some seven months later – the Company announced its annual results for the year ended 31 March 2014. These results, however, instead of recording a loss, recorded a profit for the year, before taxation, of HK\$417,153,000 including an annual profit of HK\$417,282,000 in its securities investment segment.
- (iii) On 23 September 2014, the Secretarial Department of the Company sent an email to all board members of the Company (including the 2nd to 7th Specified Persons) attaching the unaudited consolidated management accounts of the Company for the four months ended 31 July 2014, that is, for the months of April, May, June and July 2014. The management accounts revealed that there had been a further increase in profits, more specifically –

- (a) The Company had made a profit of HK\$345,772,000 in the month of July 2014.
 - (b) The Company's cumulative profit for the four months had amounted to HK\$372,952,000, and
 - (c) The cumulative profit for the securities investment segment of the business had amounted to HK\$379,600,000 for the same four month period.
- (iv) Less than a month after these management accounts had been made known to the board members – on 13 October 2014 – the Secretarial Department of the Company sent an email to board members (including the 2nd to 7th Specified Persons) attaching the unaudited consolidated management accounts of the Company for the five-month period from 1 April 2014 to 31 August 2014 – the August Management Accounts.
- (v) The information contained in the August Management Accounts ought reasonably have come to the knowledge of the board members on or about the day the email was sent, that is, on or about 13 October 2014.
- (vi) The August Management Accounts revealed that –
- (a) In the month of August 2014 alone, the Company had made a profit of HK\$464,909,000, some HK\$119,000,000 greater than in July.

(b) Cumulative profit for the five months had amounted to HK\$837,861,000.

(c) In respect of the main profit driver of the business, the securities investment segment, cumulative profit over the five-month period had amounted to HK\$847,743,000.

(vii) In the two statements of agreed facts signed by the Company and the 2nd to 7th Specified Persons, it was agreed that the August Management Accounts contained information that constituted inside information. In this regard, the statement of agreed facts, Annexure “C”, said that the information –

(a) was specific to the Company as it included key financial information of the Company such as turnover and profit of the Company in the relevant period;

(b) was not generally known to those people who were accustomed to or would be likely to deal in the shares of the Company, which included individual investors and speculators who had previously traded or had an interest in carrying out trading in the shares of the Company; and

(c) would, if made known to that group of persons, *be likely to have a material positive effect on the company's share price as it indicated significant increase in profits by the Company.*” [emphasis added]

- (viii) Despite possession of this inside information, on 17 October 2014, some four days after the board members had received the August Management Accounts, the Company issued an announcement in answer to an enquiry from the Stock Exchange concerning the recent decrease in the Company's share price and increase in its trading volume. The announcement said that the board of the company was not aware of any reasons for these price and volume fluctuations *nor was it aware of any information which should be announced in order to avoid a false market in the securities of the company.* [emphasis added]
- (ix) The announcement of 17 October 2014 was made pursuant to a written resolution approved by all board members which stated that they all jointly and severally accepted full responsibility for the accuracy of the information contained in the announcement and confirmed, having made all reasonable enquiries, that to the best of their knowledge and belief the information was accurate and complete in all respects and was not misleading or deceptive and that there were no other matters which, if omitted, may make the statement misleading.
- (x) A few days later, on 22 October 2014, Philip Suen (the 2nd Specified Person), the director responsible for 'keeping track' of the security investments of the company (in accordance with the Company's Operational Manual) obtained an investment schedule from the Secretarial

Department of the Company. The schedule confirmed the following –

- (a) The Company had achieved a total unrealised gain of over HK\$958,000,000 for the six months ended 30 September 2014 from its securities portfolio (held through the Xin Corporation).
- (b) The profits were contributed in the main by holdings in three companies² which together contributed unrealised profits of \$337,533,380, \$329,398,333 and \$154,440,000.

(xi) Sometime before 7 November 2014, the unaudited consolidated management accounts of the Company for the period ended 30 September 2014 were prepared and were circulated to board members. These accounts revealed the following, namely –

- (a) That the company had made a profit of HK\$815,259,000 for the six months ended 30 September 2014, and
- (b) The profit for the securities investment segment of the business had amounted to HK\$945,938,000 for the same period.

² The companies were *ICube Technology Holdings Limited* (stock code: 139); *Heritage International Holdings Limited* (stock code: 412) and *Rising Development Holdings Limited* (stock code: 1004).

(xii) On that day, that is, on 7 November 2014, there was a meeting of the board at which consideration was given to the issue of a positive profit alert in relation to the Company's financial performance for the six-month period ended 30 September 2014. Following that meeting, after trading hours, the Company issued a profit alert. In part, the alert read as follows:

“... based on a preliminary review of the Group’s unaudited management accounts, the Group is expected (sic) a sharp turnaround of its results by recording a profit of (sic) the six months ended 30th of September 2014 as compared to the loss for the same corresponding period in 2013. The sharp turnaround of the Group's results is mainly attributable to the estimated substantial net gains on investments ... measured at fair value through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014 as compared to the net losses on investments measured at fair value through profit or loss of HK\$20,492,000 as stated in the interim results of the Group for the six months ended 30 September 2013.”

(xiii) Following the publication of the profit alert, the share price of the Company (on the next trading day) closed at a price which represented an increase of 24.84% on the previous trading day. Trading volume, when compared with the previous trading day, increased from 105,340,000 shares to 249,873,000 shares.

The Role of the 2nd to 7th Specified Persons

14. In the statement of agreed facts signed by the SFC and the Specified Persons in September 2020, the Specified Persons spoke of their involvement, or lack of it, in the matter –

- (a) Philip Suen, the 2nd Specified Person, made the following admissions. First, that he was the person responsible for complying with disclosure requirements, second, that he did not discuss with the other members of the board whether a positive profit alert should be announced in respect of the information contained in the August Management Accounts but in or about late September 2014 he had initiated broad discussions with the company's auditors in respect of relevant accounting measures.
- (b) Paul Suen, the 3rd Specified Person, who was the Chairman of the Company, said that he was the person responsible for the external affairs of the company, exploring new investment opportunities and the like. As concerns matters of compliance, he said that these had been largely delegated to Philip Suen who was a member of the Hong Kong Institute of Certified Public Accountants and also a certified public accountant in Australia. In light of this, he said, he did not know why a profit alert had only been issued in November 2014 and not at an earlier stage.
- (c) Lau King Hang, an executive director, said that he relied on reports from Philip Suen concerning investment gains and losses. Concerning the August Management Accounts, he

did not recall any discussion by board members as to whether a positive profit alert should be published. He did not himself consider the issue because he was not aware of the amount of any gain that would first be necessary to make an announcement necessary.

- (d) Huang Zhencheng, an independent non-executive director, said that he did not know that there was any disclosure requirement under the Ordinance nor was he aware of any internal procedures related to the matter.
- (e) Weng Yixiang, also an independent non-executive director, said that he (and the other non-executive directors) relied in particular on Philip Suen in respect of compliance matters. He too said that he was not aware of any internal procedures related to the matter.
- (f) Wong Kwok Tai, the third independent non-executive director, said that he relied on Philip Suen to consider issues of disclosure. He was not aware of any internal Company guidelines concerning disclosure and he did not know why there had been a failure to make disclosure.

The SFC case

15. In its Notice, the SFC asserted that the financial information contained in the August Management Accounts (that is, the information for the period from 1 April to 31 August 2014) constituted inside information in that, first, it was specific information about the Company and, second, it was not generally known to those who were accustomed to or would be likely to deal in the securities of

the Company but would if generally known to them have been likely to materially affect the price of the securities.

16. The financial information contained in the August Management Accounts was therefore information that the Company was obliged to disclose to the public as soon reasonably practicable after those accounts came to be known by the officers of the Company. That did not happen. To the contrary, on 17 October 2014, in answer to an enquiry from the Stock Exchange, the Company had made a public announcement that it was not aware of any information which should be made public in order to avoid a false market in its securities.

17. It was only on 7 November 2014 that a positive profit alert was published.

18. There had therefore been a delay of more than three weeks in complying with the disclosure requirements. Put more plainly, for that period of time key information as to the finances of the Company – information that would likely have had a material positive effect on the share price of the Company – was withheld from the market.

19. That failure, it was asserted, constituted a breach of the disclosure requirements provided for in section 307B of the Ordinance.

20. It was also the SFC case, one that was not denied by the Specified Persons, that at all material times there were no proper safeguards existing in the Company to guard against, and prevent, a failure of the disclosure requirements.

21. In respect of Philip Suen and Paul Suen, the 2nd and 3rd Specified Persons, it was asserted, and not denied, that, pursuant to the provisions of section

307G(2)(a) of the Ordinance, it was their negligent conduct which resulted in the breach of the disclosure requirements.

22. In respect of *all* of the Specified Persons, it was asserted, and not denied, that, pursuant to the provisions of section 307G(2)(b) of the Ordinance, they had failed to take all reasonable measures to ensure that proper safeguards existed to prevent a breach of the disclosure requirements.

CHAPTER 2

PROCEEDINGS LEADING TO AGREEMENT AS TO CULPABILITY AND SANCTIONS

Delay to the proceedings brought about by the Covid-19 pandemic

23. Although the initial preliminary conferences took place before Mr. Michael Hartmann as Chairman, it was determined that the substantive hearing, set to commence on 1 April 2020 (with five days reserved), would be under the chairmanship of Mr Garry Tallentire.

24. Regrettably on 16 March 2020, shortly before the substantive inquiry was due to commence, Mr Tallentire, who was now residing permanently in England, informed the parties that it would not be possible for him to be in Hong Kong to preside over the hearing on 1 April 2020.

25. At that time, the Covid-19 pandemic had forced the Hong Kong authorities to introduce 14-day quarantine periods for all persons flying into Hong Kong from the United Kingdom. Generally, international travel was becoming more problematic. In light of this, Mr Tallentire informed the legal representatives of the parties that it was no longer feasible for him to come to Hong Kong.

26. In the circumstances, in the hope that the pandemic conditions may improve and with the other chairmen committed to other matters, it was agreed that Mr Tallentire would sit as Chairman at an adjourned hearing some six months later on 12 October 2020 with five days reserved.

27. By August 2020, however, it was apparent that the restrictions on travel and social movement made necessary by the pandemic would, to a greater or lesser degree, still be in force in October 2020. In the result, the parties were informed that Mr Hartmann, the original Chairman (who was residing in Hong Kong) would assume the chairmanship of the inquiry.

28. As to the change of chairman, it is to be emphasised that Mr Tallentire, during the period of time in which he held the chairmanship, was not required to determine any matters going to the merits of the inquiry. All directions given by him were purely administrative.

Agreement as to culpability and appropriate sanctions

29. The substantive inquiry commenced on 12 October 2020, the Tribunal consisting of the Chairman and two members.

30. At the commencement of the hearing, counsel for the parties confirmed that, in accordance with the two statements of agreed facts – Annexures B and C – the Company and all the Specified Persons had accepted their culpability.

31. In addition, counsel for the parties, having agreed the nature and extent of what they considered to be appropriate sanctions, had filed a statement with the Tribunal, that statement – attached to this Report as Annexure “D” – being entitled ‘Agreed Proposed Orders by the Securities and Futures Commission and the Specified Persons’.

32. This was not the first time that an agreement between the parties as to appropriate sanctions had been put before the Tribunal for endorsement: see, for example, the report in respect of *Fujikon Industrial Holdings Limited* dated 22 May 2019.

33. In terms of the statement, Annexure D, it was agreed by the parties that the following sanctions would be appropriate –

- (a) An order of disqualification pursuant to section 307N(1)(a) of the Ordinance against Philip Suen, the 2nd Specified Person, for a period of 15 months.
- (b) Regulatory fines to be imposed pursuant to section 307N(1)(d), first, on Philip Suen, the 2nd Specified Person, in the sum of HK\$1,200,000 and, second, on Paul Suen, the 3rd Specified Person, in the sum of HK\$900,000.
- (c) An order made pursuant to section 307N(1)(i) that all the Specified Persons undergo a training programme approved by the SFC on matters of compliance with Part XIVA of the Ordinance.
- (d) Appropriate orders as to costs pursuant to sections 307N(1)(e) and (f); namely, first, an order that the Specified Persons pay the costs and expenses reasonably incurred by the Government in relation or incidental to the Tribunal proceedings, to be taxed if not agreed, and, second, an order that they pay to the SFC both the costs and expenses incurred in relation or incidental to the Tribunal proceedings and the investigation carried out for the purpose of those proceedings.

34. As to culpability, it was of course for the Tribunal to satisfy itself that the relevant statutory elements of culpability had been proved in respect of each

of the Specified Persons and in respect of each to be satisfied as to the nature and extent of that culpability.

35. Equally, the Tribunal was not bound to except any set of proposals concerning appropriate sanctions. In the exercise of its supervisory jurisdiction, it was for the Tribunal, looking to all the facts and circumstances, such circumstances to include aggravating and mitigating factors, to be satisfied that the agreed sanctions fell within an ambit of discretion that the Tribunal itself would consider appropriate to impose.

36. That said, in order to assist the Tribunal, counsel for the parties submitted substantial written argument and at the hearing itself assisted the Tribunal with oral submissions. In doing so, counsel made reference to a number of earlier reports of the Tribunal concerning breaches of the statutory requirements to make timely disclosure of inside information³.

37. The Tribunal's findings in respect of both culpability and sanctions are set out in the following chapter.

³ The reports included the following: first, *AcrossAsia Limited* dated 29 November 2016; second, *Yorkey Optical International (Cayman) Limited* dated 27 February 2017; third, *Mayer Holdings Limited* dated 5 April 2017 and *Fujikon Industrial Holdings Limited* dated 22 May 2019.

CHAPTER 3

CONFIRMATION OF CULPABILITY AND APPROPRIATE SANCTIONS

The issue of culpability

38. In terms of the two statements of agreed facts, all the Specified Persons (the Company and the 2nd to 7th Specified Persons) agreed that the August Management Accounts – received on 13 October 2014 – contained information about the Company that, if known to the market at the time, would have been likely to materially affect the share price. The information showed a significant improvement in the Company’s investments in securities, this being a principal indicator of financial performance.

39. The Tribunal accepts that the information contained in the August Management Accounts, if known to the market, would clearly have had a material effect on the Company’s share price. The fact that the day after the Company eventually published a profit warning on 7 November 2014 the share price of the Company closed at an increased value of nearly 25% (on more than double the volume of trading) is compelling evidence in itself.

40. It is also to be noted that, having recorded a profit in excess of HK\$417 million in the year ended 31 March 2014, the August Management Accounts revealed that in the following year, in just its first five months of trading, profits had more than doubled to over HK\$837 million.

41. The Tribunal is satisfied therefore that the August Management Accounts clearly contained inside information, that is, information about the

Company that was not generally known to the market but, if known, would likely have had a material effect on the price of the Company's shares.

42. The statements of agreed facts also accepted that the August Management Accounts containing the inside information were circulated to all members of the board of directors by way of email and that all of the Specified Persons ought reasonably to have had knowledge of the contents of the accounts by about 13 October 2014.

43. It was further accepted that the Company failed to disclose the inside information as soon as reasonably practicable and that it was some 25 days before the market was informed of the Company's increasingly buoyant position in respect of its securities investments.

44. Concerning the 2nd to 7th Specified Persons, all of whom were directors – and therefore officers of the Company – when the August Management Accounts were circulated, it was accepted that, as such, they were persons liable for the failure.

45. On the basis of all the evidence before it, including the admissions contained in the two statements of agreed facts, the Tribunal has therefore found, first, that there had been a breach of the disclosure requirements contained in section 307B of the Ordinance and that, second, pursuant to the provisions of section 307G, the Specified Persons were culpable.

Considering the proposed sanctions

46. At the outset, when considering the issue of sanctions, the Tribunal considers it important to recognise that the requirement to disclose inside information in a timely and effective manner is essential to maintaining the

integrity of the market. In this regard, the “Guidelines on Disclosure of Inside Information” published by the SFC state that –

- “8. The statutory requirements to disclose inside information are central to the orderly operation and integrity of the market and underpin the maintenance of a fair and informed market.
9. To comply with the obligations, corporations should consider their own circumstances when deciding whether any inside information arises and how it should be disclosed properly to the public. Disclosure should be made in a manner that provides for equal, timely and effective access by the public to the information disclosed.” [emphasis added]

47. When, concerning a failure to meet the disclosure requirements, findings of culpability have been made by the Tribunal, a range of sanctions are open to it. In this regard, section 307N(1) of the Ordinance makes provision for the following –

- (1) Disqualification orders as a director, liquidator, receiver or manager for a period not exceeding five years;
- (2) ‘Cold shoulder’ orders for a period not exceeding five years;
- (3) ‘Cease and desist’ orders;
- (4) regulatory fines, not exceeding HK\$8 million;
- (5) payment of costs and expenses reasonably incurred by the Government;

- (6) payment of costs and expenses reasonably incurred by the SFC, including investigation costs;
- (7) recommendations made to any organisation having disciplinary powers over a person, to exercise such powers;
- (8) orders against the company to ensure future compliance, for example, by way of appointment of independent professional advisers approved by the SFC; and
- (9) orders against individual persons to ensure future compliance, for example, by undergoing a programme of training approved by the SFC.

Imposition of a disqualification order

48. The SFC recommended that the Tribunal impose a disqualification order pursuant to section 307N(1)(a) of the Ordinance on one of the Specified Persons only, namely, Philip Suen, the 2nd Specified Person. The length of the recommended disqualification was 15 months. At all material times, Philip Suen was the director given immediate supervision of the securities investment segment of the Company's business as well as matters of regulatory compliance.

49. No disqualification order was sought against Paul Suen, the 3rd Specified Person. In this respect, counsel for the SFC said that, on the evidence, it was apparent that Paul Suen, even though Chairman of the Company, acted primarily in a supervisory role. He was at the same time a director of various other listed companies in Hong Kong. As such, Paul Suen and the other board members relied upon Philip Suen to report back concerning fluctuations in the securities investments portfolio and also in respect of matters related to regulatory

compliance. In this regard, the Tribunal has recognised that directors are entitled to delegate functions, placing reasonable trust in the competence and integrity of those to whom the delegation is made.

50. In the circumstances, the Tribunal is satisfied that, in all the circumstances, a disqualification order against Philip Suen only is appropriate.

51. In mitigation of Philip Suen's culpability, it was emphasised by his counsel that he had only joined the Company on 2 July 2014 and had only been in position, therefore, for some three months, giving him little time to "get himself up to speed". This, as the Tribunal accepts, would have been of particular significance in respect of his general obligation to investigate what regulatory structures were in place within the Company and, in light of that, to take reasonable steps to ensure that proper safeguards existed to prevent disclosure failures.

52. In addition, it was said on his behalf that the shares which had increased in value so markedly were inherently volatile which demanded a level of caution on his part. The value of such shares were prone to substantial variation every day and accordingly 'paper profits' had to be viewed with care. That, of course, is understood but in the present case the Tribunal has taken note of the fact that the increase in the value of the securities portfolio was not a 'one or two day' aberration, considered in context it constituted an extended increase in value.

53. On behalf of Philip Suen, it was further said that, as an accountant, he had been of the view that the figures shown to him in the August Management Accounts were "rough figures" in that the accounting classification and treatment of certain investments were yet to be clarified or confirmed by the Company's auditors. In addition, April to August financial performance had not taken into

account tax provisions (which as finally determined and shown in the September Management Accounts amounted to HK\$120 million).

54. It was further emphasised that Philip Suen had not merely ‘sat on his hands’ during the relevant period. From about late September, when he noted that there could be a significant improvement in the Company's financial performance, he had initiated discussions with the Company's auditors in respect of a number of accounting matters including, first, how to account for the costs of bonus shares, and second, whether to reclassify some of the securities held by the company as long-term investments.

55. It was also emphasised to the Tribunal that, as the records show, the Company had a practice of making regular and timely disclosure related to its financial performance and it was therefore unsurprising that Philip Suen, a new member of the board, believed that it was not the Company's practice to issue profit alerts in respect of financial performance before the end of each relevant financial period.

56. On behalf of Philip Suen, it was accepted by his counsel that he should have been more vigilant as to his duty of disclosure, particularly as he was the officer given charge of the securities segment of the business. Nevertheless, it was said that his conduct did not warrant finding that he had acted recklessly.

57. As it was, it was not suggested by the SFC that Philip Suen had acted recklessly. It was agreed that he had acted negligently in that he had failed to exercise such care, skill and foresight as a reasonable man in his situation would have exercised in the circumstances.

58. While counsel for the SFC accepted that Philip Suen's conduct had been negligent and not reckless, and accepted fully that there was no evidence of

personal gain being sought or loss avoided, counsel emphasised that at the relevant time he had been the director given the specific duty of monitoring securities investments and had also been the director charged with ensuring that all necessary compliance matters were undertaken. The information which was not disclosed related to a very substantial increase in profit. It was a serious matter which the investing public were entitled to be made aware of as soon as reasonably practicable.

59. It was further submitted that the failure to ensure disclosure was exacerbated by the fact that on 17 October 2014, several days after the receipt of the August Management Accounts, in response to an enquiry from the Stock Exchange, Philip Suen would have played a role in issuing an announcement that the board of the Company was not aware of any reason for fluctuations in its share price or the volume of trading in its shares – or of any inside information that needed to be disclosed.

60. On a consideration of all relevant evidence, the Tribunal is satisfied that the conduct of Philip Suen constituted negligent conduct. He was not only negligent – in terms of section 307G(2)(a) – in failing to ensure that the inside information contained in the August Management Accounts was released to the market in a timely fashion, there was, on a more general basis, and even accepting that he was a relative newcomer to his position of responsibility, a negligent failure on his part – in terms of section 307G(2)(b) – to ensure that all reasonable measures were taken from time to time to ensure that proper safeguards existed to prevent such failures.

61. In light of all relevant matters, therefore, the Tribunal considered it appropriate to impose upon Philip Suen a period of disqualification, it being remembered that disqualification acts essentially as a protective measure, removing an individual from day-to-day involvement in the management of a

listed corporation and thereby from further risk of undermining the integrity of the market. In the present case, sensibly, the sanction of disqualification was complemented by an order that Philip Suen undergo a programme of training on disclosure obligations, directors' duties and corporate governance.

62. As to the period of disqualification, having looked to earlier reports of the Tribunal for guidance, but recognising that each case must be judged according to its own facts, the Tribunal was satisfied that a disqualification period of 15 months as recommended by the parties was appropriate.

Imposition of regulatory fines

63. The Tribunal has the jurisdiction to impose regulatory fines on corporations, chief executive officers and directors subject to a maximum fine in each instance of HK\$8 million. As to the appropriate amount of a fine, it must in all the circumstances of the case be proportionate and reasonable in relation to the breach of the disclosure requirements that have been proved. In assessing what is proportionate and reasonable, the Tribunal may take a range of factors into account: in this regard, see section 307N(3). These factors include the seriousness of the conduct, particularly the degree to which it may have damaged the integrity of the market; whether it was intentional, reckless or negligent; whether any personal benefit was intended (by way of profit gained or loss avoided) and the financial resources of the person subject to the fine.

64. In the present case, of course, the conduct of both Philip Suen, the 2nd Specified Person, and Paul Suen, the 3rd Specified Person, was agreed to be negligent only and nor was any issue of personal benefit of relevance. As to the financial resources of these two persons, the fact that they have agreed to the quantum of their regulatory fines without raising any issue of affordability is an indication that the level of the agreed fines is not beyond their means.

65. On the broader basis of assessing the consequences, actual and potential, of their negligent conduct, the Tribunal must exercise a broad discretion, taking all relevant factors into account. In doing so, in so far as it is appropriate, while recognising that the facts of each case are the paramount consideration, the Tribunal may make reference to its findings in earlier reports.

66. In the present case, it was agreed between the parties that the imposition of a regulatory fine on Philip Suen of HK\$1,200,000 and on Paul Suen of HK\$900,000 were both appropriate. The Tribunal is of the view that, having regard to the nature and extent of the culpability of each of these two persons, the fines fall well within the ambit of what it may well have independently imposed. Accordingly, it orders that regulatory fines in those sums be imposed.

The order that the 2nd to 7th Specified Persons attend a programme of training

67. On the basis of the evidence put before the Tribunal, it was apparent that the 2nd to 7th Specified Persons, whatever the level of their involvement in the management of the Company, did not have sufficient understanding of their responsibilities to ensure that the Company met its regulatory disclosure obligations.

68. In the opinion of the Tribunal, there was force in the submission made on behalf of the SFC that a constructive – and necessary – means of reducing the risk of further breaches of the Company’s disclosure obligations was to ensure that all the Specified Persons received training.

69. The Tribunal, therefore, agreed fully with the submission that the Specified Persons each undergo a course of appropriate training pursuant to the provisions of section 307N(1)(i).

Legal costs

70. There can be no dispute that costs must follow the event and be ordered as agreed.

The Order made

71. For the reasons given in this Report, the Tribunal has made the Order attached as Annexure “E”.

72. In light of the fact that at the end of the hearing on 12 October 2020 the Tribunal orally confirmed its agreement with the proposed orders, the Order, Annexure E, was filed with the Court of First Instance on 16 October 2020.



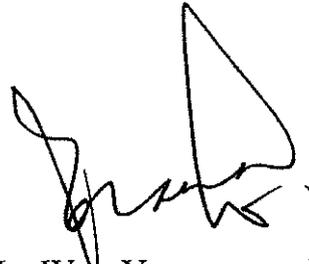
Mr. Michael Hartmann, GBS

(Chairman)



Mr. Kam Jun-kow, Douglas

(Member)



Ms. Wan Yuen-yung, Eleanor

(Member)

Dated 19 February 2021

Annexure A

**IN THE MATTER OF THE LISTED SECURITIES OF
CMBC CAPITAL HOLDINGS LIMITED
(FORMERLY KNOWN AS MISSION CAPITAL HOLDINGS LIMITED)
(STOCK CODE: 1141)**

**NOTICE TO THE MARKET MISCONDUCT TRIBUNAL
PURSUANT TO SECTION 307I(2) OF AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE (CAP 571)
(THE “ORDINANCE”)**

Whereas it appears to the Securities and Futures Commission (the “**Commission**”) that a breach of the disclosure requirement within the meaning of sections 307B and 307G of Part XIVA of the Ordinance has or may have taken place in relation to the securities of CMBC Capital Holdings Limited listed on the Stock Exchange of Hong Kong Limited (“**SEHK**”), the Market Misconduct Tribunal is hereby required to conduct proceedings and determine:-

- (a) whether a breach of a disclosure requirement has taken place; and
- (b) the identity of any person who is in breach of the disclosure requirement.

Persons and/or corporate bodies appearing to the Commission to have breached or may have breached a disclosure requirement

- (i) CMBC Capital Holdings Limited (formerly known as Mission Capital Holdings Limited) (the “**Company**”)
- (ii) Suen Yick Lun Philip (“**Philip Suen**”)
- (iii) Suen Cho Hung Paul (“**Paul Suen**”)
- (iv) Lau King Hang (“**Lau**”)
- (v) Huang Zhencheng (“**Huang**”)
- (vi) Weng Yixiang (“**Weng**”)
- (vii) Wong Kwok Tai (“**Wong**”)

(each a “**Specified Person**” and collectively, the “**Specified Persons**”)

Statement for Institution of Proceedings

A. PARTIES

1. The Company (the 1st Specified Person) is incorporated in Bermuda. At the material time, the Company and its subsidiaries (together the “**Group**”) were principally engaged in the business of securities investment (the “**Securities Investment Segment**”), supply and procurement of metal minerals, recyclable materials and timber logs, and provision of short-term loan financing.
2. The Company’s shares have been listed on the Main Board of SEHK since 12 March 1998 (stock code: 1141).
3. At all material times:-
 - (1) Philip Suen (the 2nd Specified Person) was the Chief Executive Officer (from 31 October 2014), Company Secretary (from 2 July 2014), and an executive director (from 2 July 2014) of the Company. Philip Suen was the person responsible for the Securities Investment Segment of the Company.
 - (2) Paul Suen (the 3rd Specified Person) was the Chairman and an executive director of the Company.
 - (3) Lau (the 4th Specified Person) was an executive director of the Company.
 - (4) Huang (the 5th Specified Person), Weng (the 6th Specified Person), and Wong (the 7th Specified Person) were independent non-executive directors of the Company.
4. Each of the 2nd to 7th Specified Persons was at all material times an “*officer*” of the Company as defined in section 1, Part 1 of Schedule 1 to the Ordinance.

B. THE COMPANY'S FINANCIAL RESULTS AND THE PROFIT ALERT

5. On 28 November 2013, the Company, then known as Poly Capital Holdings Limited, announced its interim results for the six months ended 30 September 2013 (the “**Interim Results 2013**”). The Company recorded a segment loss of HK\$14,347,000 in its Securities Investment Segment and a loss before taxation of HK\$12,030,000 for the six months ended 30 September 2013.
6. On 26 June 2014, the Company announced its annual results for the year ended 31 March 2014 (the “**Annual Results 2014**”). The Company recorded a segment profit of HK\$417,282,000 in its Securities Investment Segment and a profit before taxation of HK\$417,153,000 for the year ended 31 March 2014.
7. On 23 September 2014, Suki Leung of the Company Secretarial Department of the Company sent an email to all members of the board of directors of the Company, including the 2nd to 7th Specified Persons, attaching the unaudited consolidated management accounts of the Company for the four months ended 31 July 2014. The said management accounts recorded a significant increase in profit of the Company and revealed that:-
 - (1) The Company made a profit of HK\$345,772,000 in the month of July 2014.
 - (2) Cumulative profit for the four months from 1 April 2014 to 31 July 2014 amounted to HK\$372,952,000.
 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$379,600,000 for the same four month period.
8. On 30 September 2014, by a special resolution passed by the shareholders at the annual general meeting, the Company changed its name from Poly Capital Holdings Limited to Mission Capital Holdings Limited.
9. On 13 October 2014, Suki Leung sent an email to all members of the board of directors, including the 2nd to 7th Specified Persons (the “**13 October Email**”),

attaching the unaudited consolidated management accounts of the Company for the five months ended 31 August 2014 (the “**August Management Accounts**”).

10. The August Management Accounts revealed a further significant improvement in the Company’s financial performance from that of the previous month. The improved performance was also significant when compared with the Interim Results 2013 and the Annual Results 2014. The August Management Accounts revealed that:-
 - (1) The Company made a profit of HK\$464,909,000 in the month of August 2014.
 - (2) Cumulative profit for the five months from 1 April 2014 to 31 August 2014 amounted to HK\$837,861,000.
 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$847,743,000 for that same five month period.
11. The information relating to the financial performance of the Company for the first five months of the financial year starting on 1 April 2014 as contained in the August Management Accounts (the “**2014 Apr-Aug Financial Performance**”) did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 7th Specified Persons on or around 13 October 2014 when Suki Leung sent the 13 October Email to members of the board of the Company including the 2nd to 7th Specified Persons.
12. On 17 October 2014, the Company issued an announcement (the “**17 October Announcement**”) upon SEHK’s enquiry about the recent decrease in the price and increase in the trading volume of the shares of the Company. The board of directors stated in the 17 October Announcement that it was not aware of any reason for those price and volume movements or any information which must be announced to avoid a false market in the Company’s securities or any inside information that needed to be disclosed under Part XIVA of the Ordinance.
13. The 17 October Announcement was made pursuant to a written resolution approved by all members of the board, including the 2nd to 7th Specified Persons. The 2nd to 7th

Specified Persons noted and confirmed that having made all reasonable enquiries, the information contained in the 17 October Announcement was to the best of their knowledge and belief accurate and complete in all respects and not misleading and deceptive, and that there were no other matters the omission of which would make any statement in the 17 October Announcement misleading.

14. On 22 October 2014, Lai Yin Ling Elaine, the then financial controller of the Company, sent by email to Philip Suen a schedule of investment in securities of the Company (held via its subsidiary) for the six months ended 30 September 2014 (the “**Investment Schedule**”). The Investment Schedule revealed the following:-
 - (1) The Company achieved a total unrealised gain of over HK\$958,000,000 from its securities portfolio held through one of its fully-owned subsidiaries for the six months ended 30 September 2014.
 - (2) The profits were mainly contributed by the Company’s holdings in ICube Technology Holdings Limited (stock code: 139), Heritage International Holdings Limited (stock code: 412), and Rising Development Holdings Limited (stock code: 1004). The holdings in these three companies contributed unrealised profits of HK\$337,533,380, HK\$329,398,333, and HK\$154,440,000 respectively.
15. At some time between 30 September 2014 and 7 November 2014, the unaudited consolidated management accounts of the Company for the period ended 30 September 2014 were prepared and circulated to the board of directors. The said management accounts revealed that:-
 - (1) The Company made a profit of HK\$815,259,000 for the six months ended 30 September 2014.
 - (2) The profit for the Securities Investment Segment amounted to HK\$945,938,000 for that same six month period.

16. On 7 November 2014 after trading hours at 5:58 pm, the Company issued a profit alert (the “**Profit Alert**”) which stated *inter alia* that:-
- (1) Based on a preliminary review of the Group’s unaudited management accounts, the Group expected a sharp turnaround of its results by recording a profit for the six months ended 30 September 2014 as compared to the loss for the same corresponding period in 2013.
 - (2) The sharp turnaround of the Group’s results was mainly attributable to the estimated substantial net gains on investments (which comprised listed equity securities, convertible bonds and interest bearing notes) measured at fair value through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014 as compared to the net losses on investments measured at fair value through profit or loss of HK\$20,492,000 as stated in the Interim Results 2013.
17. The Profit Alert was issued pursuant to the board resolution made at the board meeting of the Company on 7 November 2014, at which the 2nd to 4th Specified Persons were personally present and the 5th to 7th Specified Persons attended by telephone conference.
18. Following the publication of the Profit Alert, the share price of the Company on 10 November 2014 (i.e. the next trading day following the publication of the Profit Alert) traded between \$0.169 and \$0.202 per share, and closed at \$0.201. The closing price represented an increase of 24.84% when compared with the closing price on 7 November 2014, and on an increased trading volume from 105,340,000 shares on 7 November 2014 to 249,873,000 shares on 10 November 2014.
19. On 28 November 2014, the Company published its results for the six months ended 30 September 2014 (the “**Interim Results 2014**”). The Company reported a profit of HK\$945,938,000 in its Securities Investment Segment and an overall total profit before taxation of HK\$936,224,000 for the six months ended 30 September 2014.

C. FAILURE TO DISCLOSE INSIDE INFORMATION

20. The information relating to the 2014 Apr-Aug Financial Performance, which contained key financial information of the Company including turnover and profit in the relevant period, constituted “*inside information*” within the meaning of the definition of that term in section 307A(1) of the Ordinance in that:-
- (1) It was specific information about the Company; and
 - (2) It was not generally known to the persons who were accustomed to or would be likely to deal in the listed securities of the Company but would if generally known to them have been likely to materially affect the price of the securities.
21. The information relating to the 2014 Apr-Aug Financial Performance did, or ought reasonably to have, come to the knowledge of all members of the board of directors, including the 2nd to 7th Specified Persons, as officers of the Company, on or around 13 October 2014 by virtue of the 13 October Email.
22. A reasonable person, acting as an officer of the Company, would have considered that the information relating to the 2014 Apr-Aug Financial Performance was inside information in relation to the Company.
23. By reason of the aforesaid, the information relating to the 2014 Apr-Aug Financial Performance came to the knowledge of the Company through the 2nd to 7th Specified Persons (and in particular, Philip Suen) as its officers on or around 13 October 2014. Once such information came to the Company’s knowledge, under section 307B of the Ordinance, the Company was obliged to disclose that information to the public as soon as reasonably practicable. However, no disclosure in respect of the significant improvement in the Company’s financial performance was made until the publication of the Profit Alert on 7 November 2014.

D. BREACH OF A DISCLOSURE REQUIREMENT BY THE COMPANY

24. By reason of the matters set out above, the Company failed to disclose to the public information in relation to the 2014 Apr-Aug Financial Performance (which constituted “*inside information*” within the meaning of the definition of that term in section 307A(1) of the Ordinance) as soon as reasonably practicable after the said inside information had come to its knowledge, contrary to section 307B(1) of the Ordinance.
25. Under section 307A(2) of the Ordinance, a breach of a disclosure requirement takes place if any of the requirements in *inter alia* section 307B is contravened in relation to a listed corporation.
26. Therefore, the Company was, or might have been, in breach of the disclosure requirement as provided for in section 307B of the Ordinance.

E. BREACH OF A DISCLOSURE REQUIREMENT BY THE 2ND TO 7TH SPECIFIED PERSONS

27. As officers of the Company, the 2nd to 7th Specified Persons would each be in breach of the disclosure requirement if (individually considered) the breach by the Company was as a result of their reckless or negligent conduct under section 307G(2)(a) of the Ordinance or if they had not taken all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach under section 307G(2)(b) of the Ordinance.
28. By reason of the matters set out above, each of the 2nd to 7th Specified Persons was aware of, or alternatively ought reasonably to have become aware of, the inside information pertaining to the 2014 Apr-Aug Financial Performance (which revealed a significant improvement in the Company’s financial performance) on or around 13 October 2014.

29. Philip Suen, as an executive director and the officer responsible for the Securities Investment Segment of the Company, failed to ensure timely disclosure of the inside information pertaining to the 2014 Apr-Aug Financial Performance to the public after it had, or ought reasonably to have, come to his knowledge. Such failure amounted to reckless or negligent conduct on his part.
30. The 3rd to 7th Specified Persons, as directors of the Company, failed to ensure timely disclosure of the inside information pertaining to the 2014 Apr-Aug Financial Performance to the public after it had, or ought reasonably to have, come to their knowledge. The failure of each of them amounted to reckless or negligent conduct on their part.
31. Further or alternatively, at all material times, there were no proper safeguards existing in the Company to prevent a breach of the disclosure requirement under Part XIVA of the Ordinance. Each of the 2nd to 7th Specified Persons had failed to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of the disclosure requirement (under Part XIVA of the Ordinance) pursuant to section 307G(2)(b) of the Ordinance.
32. In the circumstances, the 2nd to 7th Specified Persons were, or might have been, in breach of the disclosure requirement pursuant to section 307G(2)(a) and/or section 307G(2)(b) of the Ordinance.

Dated this 26th of November 2018

Securities and Futures Commission

Securities and Futures Commission

Annexure B

MARKET MISCONDUCT TRIBUNAL
CMBC CAPITAL HOLDINGS LIMITED
(FORMERLY KNOWN AS MISSION CAPITAL HOLDINGS LIMITED)
(STOCK CODE: 1141)

STATEMENT OF AGREED AND ADMITTED FACTS

**Persons and/or corporate bodies who accept breach of a disclosure
requirement**

1. CMBC Capital Holdings Limited (formerly known as Mission Capital Holdings Limited) (the “**Company**”)
2. Suen Yick Lun Philip (“**Philip Suen**”)
3. Suen Cho Hung Paul (“**Paul Suen**”)
4. Lau King Hang (“**Lau**”)
5. Huang Zhencheng (“**Huang**”)
6. Weng Yixiang (“**Weng**”)
7. Wong Kwok Tai (“**Wong**”)

(each a “**Specified Person**” and collectively, the “**Specified Persons**”)

For the purpose of the disclosure proceedings instituted by the Securities and Futures Commission (the “**Commission**”) before the Market Misconduct Tribunal (the “**Tribunal**”) under section 307I(2) of and Schedule 9 to the Securities and Futures Ordinance, Cap. 571 (the “**Ordinance**”) by way of the notice dated 26 November 2018, the facts and matters set out in this Statement of Agreed and Admitted Facts are agreed and accepted by the Commission and the Company. It is agreed by both parties hereto that the Tribunal may make a determination under section 307J(1) of the Ordinance on the basis of the facts and matters set out herein below.

A. INTRODUCCION

1. The Company is a Bermuda incorporated company. Its shares have been listed on the Main Board of the Stock Exchange of Hong Kong Limited (“SEHK”) since 12 March 1998 (stock code: 1141).
2. Between 2014 and the present, the shareholding structure and the management of the Company has been changed twice, signified by the change of the name of the Company from "Mission Capital Holdings Limited" to "Skyway Securities Group Limited" with effect from 13 August 2015; and subsequently to the current name of "CMBC Capital Holdings Limited" on 15 May 2017. The matters with which the present proceedings concern took place prior to such changes and the 2nd to 7th Specified Persons no longer have any relationship with the Company.
3. The Company and its subsidiaries (together the “**Group**”) were at all material times principally engaged in the business of securities investment (the “**Securities Investment Segment**”), supply and procurement of metal minerals, recyclable materials and timber logs, and provisions of short-term loan financing. At all material times, the Company’s subsidiaries included:-
 - (1) Poly Forestry International Limited;
 - (2) Poly Resources (Asia) Limited;
 - (3) Poly Development Group Limited;
 - (4) Xin Corporation (HK) Limited (“**Xin Corp**”); and
 - (5) Xin Credit Services Limited.
4. At all material times, the financial performance of the Group was predominantly driven by its Securities Investment Segment. According to the Company’s Annual Report 2013-2014 (for the period from 1 April

2013 to 31 March 2014), the Company recorded a profit of HK\$417,282,000 in the Securities Investment Segment, which significantly contributed to the Company's total net profit before taxation of HK\$417,153,000.

5. At all material times, each of the 2nd to 7th Specified Persons was an “*officer*” of the Company as defined in section 1, Part 1 of Schedule 1 to the Ordinance:-

- (1) Philip Suen (the 2nd Specified Person) was the Chief Executive Officer (from 31 October 2014), Company Secretary (from 2 July 2014), and an executive director (from 2 July 2014) of the Company. Philip Suen was the person responsible for the Securities Investment Segment of the Company. Philip Suen resigned from the Board with effect from 29 February 2016.
- (2) Paul Suen (the 3rd Specified Person) was the Chairman and an executive director of the Company. Paul Suen resigned from the Board with effect from 3 March 2015.
- (3) Lau (the 4th Specified Person) was an executive director of the Company. Lau resigned from the Board with effect from 21 July 2015.
- (4) Huang, Weng, and Wong (the 5th to 7th Specified Persons) were independent non-executive directors of the Company and resigned from the Board with effect from 31 March 2015, 19 March 2015 and 30 July 2015 respectively.

6. The Company's unaudited consolidated management accounts for the period from 1 April 2014 to 31 August 2014 (the "**August Management Accounts**") revealed that the Company had achieved significant improvement in its financial performance for the five months between April 2014 and August 2014, when compared with its interim results for the six months ended 30 September 2013 (the "**Interim Results 2013**"), its annual results for the year ended 31 March 2014 (the "**Annual Results 2014**"), and its financial performance for the 4 months from 1 April 2014 to 31 July 2014. The information pertaining to the August Management Accounts did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 7th Specified Persons on or around 13 October 2014. However, the said improvement was not made public until 7 November 2014 (after trading hours) when the Company issued a profit alert announcement in relation to its financial performance for the six months from April 2014 to September 2014 (the "**Profit Alert**").

7. Following the publication of the Profit Alert, the share price of the Company on 10 November 2014 (i.e. the next trading day after the publication of the Profit Alert) closed at \$0.201 per share, representing an increase of 24.84% (on significantly increased trading volume) when compared with its closing price on 7 November 2014.

B. 2014 APR-AUG FINANCIAL PERFORMANCE

8. On 28 November 2013, the Company, then known as Poly Capital Holdings Limited, announced the Interim Results 2013. The Company recorded a segment loss of HK\$14,347,000 in its Securities Investment Segment and a loss before taxation of HK\$12,030,000 for the six months ended 30 September 2013.

9. On 26 June 2014, the Company announced the Annual Results 2014. The Company recorded a segment profit of HK\$417,282,000 in its Securities Investment Segment and a profit before taxation of HK\$417,153,000 for the year ended 31 March 2014.
10. On 2 July 2014, Philip Suen was appointed as an executive director and the Company Secretary of the Company. Since then, Philip Suen was the executive director overseeing the Securities Investment Segment.
11. The Company's securities portfolio was held through its wholly-owned subsidiary Xin Corp. The securities held by Xin Corp were mainly held through two securities brokers, HEC Securities Limited ("HEC") (formerly known as Chung Nam Securities Limited) and Bank J. Safra Sarasin Ltd ("Safra Sarasin"). Philip Suen, as the executive director responsible for the Securities Investment Segment, would receive the daily and monthly statements issued by HEC and the monthly statements issued by Safra Sarasin.
12. According to the Operational Manual of the Company:-

“Director will keep track on the securities market price and economic condition in order to determine to invest in which shares. After decide to buy/sell which share, director will discuss with chairman and obtain chairman's consent. And then, director will give instruction to broker by phone. On the next business date, securities company will issue a daily transaction statement to the Company. Director will check the details on the statement. After checking, director will pass the statement to Accountant to arrange for fund transfer to/received from the securities account. Accountant will then update the summary of investment in securities.”
13. Philip Suen was the director in the Company who would keep track of the Company's securities investment according to the Operation Manual and

check, on a daily basis, the performance of the securities portfolio held by the Company.

14. Lai Yin Ling Elaine (“**Elaine Lai**”), the then financial controller of the Company, would prepare the Company’s monthly unaudited consolidated management accounts and financial highlights. The monthly unaudited consolidated management accounts would then be circulated to all members of the board of directors through the staff at the Company Secretarial Department.

15. On 23 September 2014, Suki Leung of the Company Secretarial Department of the Company sent an email to all members of the board of directors of the Company, including the 2nd to 7th Specified Persons, attaching the unaudited consolidated management accounts of the Company for the four months ended 31 July 2014. The said management accounts showed that:-
 - (1) The Company made a profit of HK\$345,772,000 in the month of July 2014.
 - (2) Cumulative profit for the four months from 1 April 2014 to 31 July 2014 amounted to HK\$372,952,000.
 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$379,600,000 for the same four month period.

16. On 30 September 2014, by a special resolution passed by the shareholders at the annual general meeting, the Company changed its name from Poly Capital Holdings Limited to Mission Capital Holdings Limited.

17. On 13 October 2014, Suki Leung sent an email to all members of the board of directors, including the 2nd to 7th Specified Persons (the “**13 October Email**”), attaching the August Management Accounts.

18. The August Management Accounts revealed a further significant improvement in the Company’s financial performance from that of the previous month. The improved profit for the five months from 1 April 2014 to 31 August 2014 was also significant when compared with the Interim Results 2013 and the Annual Results 2014. The August Management Accounts revealed that:-
 - (1) The Company made a profit of HK\$464,909,000 in the month of August 2014.

 - (2) Cumulative profit for the five months from 1 April 2014 to 31 August 2014 amounted to HK\$837,861,000.

 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$847,743,000 for that same five month period.

19. The overall profit of the Company and the profit for the Securities Investment Segment for the five months ended 31 August 2014 (see paragraphs 17(2) and (3) above) were expressly mentioned on the first page of the August Management Accounts which set out the financial highlights for the same period.

20. The information relating to the financial performance of the Company for the first five months of the financial year starting on 1 April 2014 as contained in the August Management Accounts (the “**2014 Apr-Aug Financial Performance**”) did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 7th Specified Persons on or around 13

October 2014 when Suki Leung sent the 13 October Email to members of the board of the Company including the 2nd to 7th Specified Persons.

21. The 2014 Apr-Aug Financial Performance (as contained in the August Management Accounts) was information that:-

- (1) was specific to the Company as it included key financial information of the Company such as turnover and profit of the Company in the relevant period;
- (2) was not generally known to those people who were accustomed to or would be likely to deal in the shares of the Company, which included individual investors and speculators who had previously traded or had an interest in carrying out trading in the shares of the Company; and
- (3) would, if made known to that group of persons, be likely to have a material positive effect on the Company's share price as it indicated significant increase of profit by the Company.

C. THE 17 OCTOBER ANNOUNCEMENT AND THE PROFIT ALERT

22. On 17 October 2014, in response to SEHK's enquiry about the recent decrease in the price and increase in the trading volume of the shares of the Company, the Company issued an announcement (the "**17 October Announcement**"). The Company stated the following in the 17 October Announcement:-

"The Board of Directors (the "Board") of [the Company] has noted the recent decrease in the price and increase in the trading volume of the shares of the Company. Having made such enquiry with respect to the Company as is reasonable in the

circumstances, the Board confirms that it is not aware of any reasons for these price and volume movements or of any information which must be announced to avoid a false market in the Company's securities or of any inside information that needs to be disclosed under Part XIVA of the [Ordinance].”

23. The 17 October Announcement was made pursuant to a written resolution approved and signed by all members of the board, including the 2nd to 7th Specified Persons. The written resolution stated as follows:-

“...all directors of the Company have jointly and severally accepted full responsibility for the accuracy of the information contained in the Announcement and confirmed, having made all reasonable enquiries, that to the best of their knowledge and belief the information contained in the Announcement is accurate and complete in all respects and not misleading or deceptive, and there are no other matters the omission of which would make any statement [in] the Announcement misleading.”

24. On 17 October 2014, Philip Suen sought from Elaine Lai the monthly securities statement issued by HEC from April to July 2014. Elaine Lai sent the same by email to Philip Suen on the same day. Further, on 22 October 2014, Elaine Lai sent by email to Philip Suen the monthly statements issued by HEC from April to September 2014 and a schedule of investment in securities of the Company (held via its subsidiary) for the six months ended 30 September 2014 (the “**Investment Schedule**”). The Investment Schedule revealed the following:-

- (1) The Company achieved a total unrealised gain of over HK\$958,000,000 from its securities portfolio held through Xin Corp for the six months ended 30 September 2014.
- (2) The profits were mainly contributed by the Company's holding in ICube Technology Holdings Limited (stock code: 139), Heritage International Holdings Limited (stock code: 412), and Rising

Development Holdings Limited (stock code: 1004). The holdings in these three companies contributed unrealised profits of HK\$337,533,380, HK\$329,398,333, and HK\$154,440,000 respectively.

25. On 31 October 2014, Philip Suen was appointed as the Chief Executive Officer of the Company.

26. At some time between 30 September 2014 and 7 November 2014, the unaudited consolidated management accounts of the Company for the period ended 30 September 2014 were prepared and circulated to the board of directors. The said management accounts revealed that:-
 - (1) The Company made a profit of HK\$815,259,000 for the six months ended 30 September 2014.

 - (2) The profit for the Securities Investment Segment amounted to HK\$945,938,000 for the same six month period.

27. On 7 November 2014, the board of directors of the Company met and discussed the issuance of a positive profit alert in relation to the Company's financial performance for the six months ended 30 September 2014. According to the minutes of the meeting:-

“IT WAS NOTED THAT based on a preliminary review of the unaudited management accounts of [the Group], the Group is expected a sharp turnaround of its results by recording a profit for the six months ended 30 September 2014...The sharp turnaround of the Group's results is mainly attributable to the estimated substantial net gains on investments...measured at fair values through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014...”

28. On 7 November 2014 after trading hours at 5:58 pm, the Company issued a profit alert (the “**Profit Alert**”) which stated that:-

“...based on a preliminary review of the Group’s unaudited management accounts, the Group is expected a sharp turnaround of its results by recording a profit of the six months ended 30 September 2014 as compared to the loss for the same corresponding period in 2013. The sharp turnaround of the Group’s results is mainly attributable to the estimated substantial net gains on investments (which comprised listed equity securities, convertible bonds and interest bearing notes) measured at fair value through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014 as compared to the net losses on investments measured at fair value through profit or loss of HK\$20,492,000 as stated in the interim results of the Group for the six months ended 30 September 2013.”

29. The Profit Alert was issued pursuant to the board resolution made at the board meeting of the Company on 7 November 2014, at which the 2nd to 4th Specified Persons were personally present and the 5th to 7th Specified Persons attended by telephone conference.
30. Following the publication of the Profit Alert, the share price of the Company on 10 November 2014 (i.e. the next trading day following the publication of the Profit Alert) traded between \$0.169 and \$0.202 per share, and closed at \$0.201. The closing price represented an increase of 24.84% when compared with the closing price of 7 November 2014, and on an increased trading volume from 105,340,000 shares on 7 November 2014 to 249,873,000 shares on 10 November 2014.
31. On 28 November 2014, the Company published its results for the six months ended 30 September 2014 (the “**Interim Results 2014**”). The Company reported a segment profit of HK\$945,938,000 in its Securities Investment Segment, and an overall profit before taxation of HK\$936,224,000 for the six months ended 30 September 2014.

D. FAILURE TO DISCLOSE INSIDE INFORMATION

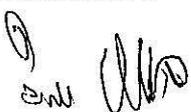
32. The information relating to the 2014 Apr-Aug Financial Performance constituted “*inside information*” within the meaning of the definition of that term in section 307A(1) of the Ordinance.
33. The information relating to the 2014 Apr-Aug Financial Performance did, or alternatively, ought reasonably to have come to the knowledge of all members of the board of directors including the 2nd to 7th Specified Persons, as officers of the Company, on or around 13 October 2014, by virtue of the 13 October Email.
34. A reasonable person, acting as an officer of the Company, would have considered that the information relating to the 2014 Apr-Aug Financial Performance was inside information in relation to the Company.
35. By reason of the aforesaid, the information relating to the 2014 Apr-Aug Financial Performance came to the knowledge of the Company through the 2nd to 7th Specified Persons (and in particular, Philip Suen) as its officers on or around 13 October 2014. Once such information came to the Company’s knowledge, under section 307B(1) of the Ordinance, the Company was obliged to disclose that information to the public as soon as reasonably practicable. However, no disclosure in respect of the significant improvement in the Company’s financial performance was made until the publication of the Profit Alert on 7 November 2014.

E. BREACH OF A DISCLOSURE REQUIREMENT BY THE COMPANY

36. By reason of the matters set out above, the Company failed to disclose to the public information in relation to the 2014 Apr-Aug Financial Performance (which constituted “*inside information*” within the meaning of the definition of that term in section 307A(1) of the Ordinance) as soon as reasonably practicable after the said inside information had come to its knowledge, contrary to section 307B(1) of the Ordinance.
37. Under section 307A(2) of the Ordinance, a breach of a disclosure requirement takes place if any of the requirements in *inter alia* section 307B is contravened in relation to a listed corporation.
38. Therefore, the Company was, or might have been, in breach of the disclosure requirement as provided for in section 307B of the Ordinance.

Dated this 10th day of March 2020.

Securities and Futures Commission :

Signed by : 
Name : Thomas Atkinson
Position : Executive Director
Date : 13 March 2020

Witnessed by : 
Name : Margaret Tse
Position : Manager
Date : 13 March 2020

For and on behalf of CMBC Capital Holdings Limited :

Signed by : 
Name : Li Jinze
Position : Chairman
Date : 10 March 2020

Witnessed by : 
Name : Li Lin
Position : Head of Legal
Date : 10 March 2020

Annexure C

MARKET MISCONDUCT TRIBUNAL
CMBC CAPITAL HOLDINGS LIMITED
(FORMERLY KNOWN AS MISSION CAPITAL HOLDINGS LIMITED)
(STOCK CODE: 1141)

STATEMENT OF AGREED AND ADMITTED FACTS

**Persons and/or corporate bodies who accept breach of a disclosure
requirement**

1. CMBC Capital Holdings Limited (formerly known as Mission Capital Holdings Limited) (the “**Company**”)
2. Suen Yick Lun Philip (“**Philip Suen**”)
3. Suen Cho Hung Paul (“**Paul Suen**”)
4. Lau King Hang (“**Lau**”)
5. Huang Zhencheng (“**Huang**”)
6. Weng Yixiang (“**Weng**”)
7. Wong Kwok Tai (“**Wong**”)

(each a “**Specified Person**” and collectively, the “**Specified Persons**”)

For the purpose of the disclosure proceedings instituted by the Securities and Futures Commission (the “**Commission**”) before the Market Misconduct Tribunal (the “**Tribunal**”) under section 307I(2) of and Schedule 9 to the Securities and Futures Ordinance, Cap. 571 (the “**Ordinance**”) by way of the notice dated 26 November 2018, the facts and matters set out in this Statement of Agreed and Admitted Facts are agreed and accepted by the Commission and each of the 2nd to 7th Specified Persons. It is agreed by all parties hereto that the Tribunal may make a determination under section 307J(1) of the Ordinance on the basis of the facts and matters set out herein below.

A. INTRODUCCION

1. The Company is a Bermuda incorporated company. Its shares have been listed on the Main Board of the Stock Exchange of Hong Kong Limited (“**SEHK**”) since 12 March 1998 (stock code: 1141).

2. The Company and its subsidiaries (together the “**Group**”) were at all material times principally engaged in the business of securities investment (the “**Securities Investment Segment**”), supply and procurement of metal minerals, recyclable materials and timber logs, and provisions of short-term loan financing. At all material times, the Company’s subsidiaries included:-
 - (1) Poly Forestry International Limited;
 - (2) Poly Resources (Asia) Limited;
 - (3) Poly Development Group Limited;
 - (4) Xin Corporation (HK) Limited (“**Xin Corp**”); and
 - (5) Xin Credit Services Limited.

3. At all material times, the financial performance of the Group was predominantly driven by its Securities Investment Segment. According to the Company’s Annual Report 2013-2014 (for the period from 1 April 2013 to 31 March 2014), the Company recorded a profit of HK\$417,282,000 in the Securities Investment Segment, which significantly contributed to the Company’s total net profit before taxation of HK\$417,153,000.

4. At all material times, each of the 2nd to 7th Specified Persons was an “*officer*” of the Company as defined in section 1, Part 1 of Schedule 1 to the Ordinance:-

- (1) Philip Suen (the 2nd Specified Person) was the Chief Executive Officer (from 31 October 2014), Company Secretary (from 2 July 2014), and an executive director (from 2 July 2014) of the Company. Philip Suen was the person responsible for the Securities Investment Segment of the Company.
 - (2) Paul Suen (the 3rd Specified Person) was the Chairman and an executive director of the Company.
 - (3) Lau (the 4th Specified Person) was an executive director of the Company.
 - (4) Huang, Weng, and Wong (the 5th to 7th Specified Persons) were independent non-executive directors of the Company.
5. The Company's unaudited consolidated management accounts for the period from 1 April 2014 to 31 August 2014 (the "**August Management Accounts**") revealed that the Company had achieved significant improvement in its financial performance for the five months between April 2014 and August 2014, when compared with its interim results for the six months ended 30 September 2013 (the "**Interim Results 2013**"), its annual results for the year ended 31 March 2014 (the "**Annual Results 2014**"), and its financial performance for the 4 months from 1 April 2014 to 31 July 2014. The information pertaining to the August Management Accounts did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 7th Specified Persons on or around 13 October 2014. However, the said improvement was not made public until 7 November 2014 (after trading hours) when the Company issued a profit alert announcement in relation to its financial performance for the six months from April 2014 to September 2014 (the "**Profit Alert**").

6. Following the publication of the Profit Alert, the share price of the Company on 10 November 2014 (i.e. the next trading day after the publication of the Profit Alert) closed at \$0.201 per share, representing an increase of 24.84% (on significantly increased trading volume) when compared with its closing price on 7 November 2014.

B. 2014 APR-AUG FINANCIAL PERFORMANCE

7. On 28 November 2013, the Company, then known as Poly Capital Holdings Limited, announced the Interim Results 2013. The Company recorded a segment loss of HK\$14,347,000 in its Securities Investment Segment and a loss before taxation of HK\$12,030,000 for the six months ended 30 September 2013.
8. On 26 June 2014, the Company announced the Annual Results 2014. The Company recorded a segment profit of HK\$417,282,000 in its Securities Investment Segment and a profit before taxation of HK\$417,153,000 for the year ended 31 March 2014.
9. On 2 July 2014, Philip Suen was appointed as an executive director and the Company Secretary of the Company. Since then, Philip Suen was the executive director overseeing the Securities Investment Segment.
10. The Company's securities portfolio was held through its wholly-owned subsidiary Xin Corp. The securities held by Xin Corp were mainly held through two securities brokers, HEC Securities Limited ("HEC") (formerly known as Chung Nam Securities Limited) and Bank J. Safra Sarasin Ltd ("**Safra Sarasin**"). Philip Suen, as the executive director responsible for the Securities Investment Segment, would receive the daily and monthly statements issued by HEC and the monthly statements issued by Safra Sarasin.

11. According to the Operational Manual of the Company:-

“Director will keep track on the securities market price and economic condition in order to determine to invest in which shares. After decide to buy/sell which share, director will discuss with chairman and obtain chairman’s consent. And then, director will give instruction to broker by phone. On the next business date, securities company will issue a daily transaction statement to the Company. Director will check the details on the statement. After checking, director will pass the statement to Accountant to arrange for fund transfer to/received from the securities account. Accountant will then update the summary of investment in securities.”

12. Philip Suen was the director in the Company who would keep track of the Company’s securities investment according to the Operational Manual and check, on a daily basis, the performance of the securities portfolio held by the Company.
13. Lai Yin Ling Elaine (“**Elaine Lai**”), the then financial controller of the Company, would prepare the Company’s monthly unaudited consolidated management accounts and financial highlights. The monthly unaudited consolidated management accounts would then be circulated to all members of the board of directors through the staff at the Company Secretarial Department.
14. On 23 September 2014, Suki Leung of the Company Secretarial Department of the Company sent an email to all members of the board of directors of the Company, including the 2nd to 7th Specified Persons, attaching the unaudited consolidated management accounts of the Company for the four months ended 31 July 2014. The said management accounts showed that:-
- (1) The Company made a profit of HK\$345,772,000 in the month of July 2014.

- (2) Cumulative profit for the four months from 1 April 2014 to 31 July 2014 amounted to HK\$372,952,000.
 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$379,600,000 for the same four month period.
15. On 30 September 2014, by a special resolution passed by the shareholders at the annual general meeting, the Company changed its name from Poly Capital Holdings Limited to Mission Capital Holdings Limited.
16. On 13 October 2014, Suki Leung sent an email to all members of the board of directors, including the 2nd to 7th Specified Persons (the “**13 October Email**”), attaching the August Management Accounts.
17. The August Management Accounts revealed a further significant improvement in the Company’s financial performance from that of the previous month. The improved profit for the five months from 1 April 2014 to 31 August 2014 was also significant when compared with the Interim Results 2013 and the Annual Results 2014. The August Management Accounts revealed that:-
 - (1) The Company made a profit of HK\$464,909,000 in the month of August 2014.
 - (2) Cumulative profit for the five months from 1 April 2014 to 31 August 2014 amounted to HK\$837,861,000.
 - (3) Cumulative profit for the Securities Investment Segment amounted to HK\$847,743,000 for that same five month period.

18. The overall profit of the Company and the profit for the Securities Investment Segment for the five months ended 31 August 2014 (see paragraphs 17(2) and (3) above) were expressly mentioned on the first page of the August Management Accounts which set out the financial highlights for the same period.
19. The information relating to the financial performance of the Company for the first five months of the financial year starting on 1 April 2014 as contained in the August Management Accounts (the “**2014 Apr-Aug Financial Performance**”) did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 7th Specified Persons on or around 13 October 2014 when Suki Leung sent the 13 October Email to members of the board of the Company including the 2nd to 7th Specified Persons.
20. The 2014 Apr-Aug Financial Performance (as contained in the August Management Accounts) was information that:-
 - (1) was specific to the Company as it included key financial information of the Company such as turnover and profit (including net gain(loss) on investments at fair value through profit or loss) of the Company in the relevant period;
 - (2) was not generally known to those people who were accustomed to or would be likely to deal in the shares of the Company, which included individual investors and speculators who had previously traded or had an interest in carrying out trading in the shares of the Company; and
 - (3) would, if made known to that group of persons, be likely to have a material positive effect on the Company’s share price as it indicated significant increase of profit (including net gain(loss) on investments at fair value through profit or loss) by the Company.

C. THE 17 OCTOBER ANNOUNCEMENT AND THE PROFIT ALERT

21. On 17 October 2014, in response to SEHK's enquiry about the recent decrease in the price and increase in the trading volume of the shares of the Company, the Company issued an announcement (the "**17 October Announcement**"). The Company stated the following in the 17 October Announcement:-

"The Board of Directors (the "Board") of [the Company] has noted the recent decrease in the price and increase in the trading volume of the shares of the Company. Having made such enquiry with respect to the Company as is reasonable in the circumstances, the Board confirms that it is not aware of any reasons for these price and volume movements or of any information which must be announced to avoid a false market in the Company's securities or of any inside information that needs to be disclosed under Part XIVA of the [Ordinance]."

22. The 17 October Announcement was made pursuant to a written resolution approved and signed by all members of the board, including the 2nd to 7th Specified Persons. The written resolution stated as follows:-

"...all directors of the Company have jointly and severally accepted full responsibility for the accuracy of the information contained in the Announcement and confirmed, having made all reasonable enquiries, that to the best of their knowledge and belief the information contained in the Announcement is accurate and complete in all respects and not misleading or deceptive, and there are no other matters the omission of which would make any statement [in] the Announcement misleading."

23. On 17 October 2014, Philip Suen sought from Elaine Lai the monthly securities statement issued by HEC from April to July 2014. Elaine Lai sent the same by email to Philip Suen on the same day. Further, on 22 October 2014, Elaine Lai sent by email to Philip Suen the monthly statements issued by HEC from April to September 2014 and a schedule

of investment in securities of the Company (held via its subsidiary) for the six months ended 30 September 2014 (the “**Investment Schedule**”). The Investment Schedule revealed the following:-

- (1) The Company achieved a total unrealised gain of over HK\$958,000,000 from its securities portfolio held through Xin Corp for the six months ended 30 September 2014.
 - (2) The profits were mainly contributed by the Company’s holding in ICube Technology Holdings Limited (stock code: 139), Heritage International Holdings Limited (stock code: 412), and Rising Development Holdings Limited (stock code: 1004). The holdings in these three companies contributed unrealised profits of HK\$337,533,380, HK\$329,398,333, and HK\$154,440,000 respectively.
24. On 31 October 2014, Philip Suen was appointed as the Chief Executive Officer of the Company.
25. At some time between 30 September 2014 and 7 November 2014, the unaudited consolidated management accounts of the Company for the period ended 30 September 2014 were prepared and circulated to the board of directors. The said management accounts revealed that:-
- (1) The Company made a profit of HK\$815,259,000 for the six months ended 30 September 2014.
 - (2) The profit for the Securities Investment Segment amounted to HK\$945,938,000 for the same six month period.

26. On 7 November 2014, the board of directors of the Company met and discussed the issuance of a positive profit alert in relation to the Company's financial performance (including the estimated substantial net gains on investments which were the predominant factor affecting the Group's financial performance) for the six months ended 30 September 2014. According to the minutes of the meeting:-

“IT WAS NOTED THAT based on a preliminary review of the unaudited management accounts of [the Group], the Group is expected a sharp turnaround of its results by recording a profit for the six months ended 30 September 2014...The sharp turnaround of the Group's results is mainly attributable to the estimated substantial net gains on investments...measured at fair values through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014...”

27. On 7 November 2014 after trading hours at 5:58 pm, the Company issued a profit alert (the “**Profit Alert**”) which stated that:-

“...based on a preliminary review of the Group's unaudited management accounts, the Group is expected a sharp turnaround of its results by recording a profit of the six months ended 30 September 2014 as compared to the loss for the same corresponding period in 2013. The sharp turnaround of the Group's results is mainly attributable to the estimated substantial net gains on investments (which comprised listed equity securities, convertible bonds and interest bearing notes) measured at fair value through profit or loss of over HK\$900 million recorded by the Group for the six months ended 30 September 2014 as compared to the net losses on investments measured at fair value through profit or loss of HK\$20,492,000 as stated in the interim results of the Group for the six months ended 30 September 2013.”

28. The Profit Alert was issued pursuant to the board resolution made at the board meeting of the Company on 7 November 2014, at which the 2nd to 4th Specified Persons were personally present and the 5th to 7th Specified Persons attended by telephone conference.

29. Following the publication of the Profit Alert, the share price of the Company on 10 November 2014 (i.e. the next trading day following the publication of the Profit Alert) traded between \$0.169 and \$0.202 per share, and closed at \$0.201. The closing price represented an increase of 24.84% when compared with the closing price of 7 November 2014, and on an increased trading volume from 105,340,000 shares on 7 November 2014 to 249,873,000 shares on 10 November 2014.
30. On 28 November 2014, the Company published its results for the six months ended 30 September 2014 (the “**Interim Results 2014**”). The Company reported a segment profit of HK\$945,938,000 in its Securities Investment Segment, and an overall profit before taxation of HK\$936,224,000 for the six months ended 30 September 2014.

D. SPECIFIC ADMISSION BY THE 2ND TO 7TH SPECIFIED PERSONS

31. In addition to the matters referred to above, specific admission by each of the 2nd to 7th Specified Persons as to his role and/or involvement in relation to the disclosure of the 2014 Apr-Aug Financial Performance are highlighted below.
32. Philip Suen admitted that:
- (1) He did not discuss with the other members of the board of directors on whether a positive profit alert should be announced in respect of the information contained in the August Management Accounts.
 - (2) He was the person responsible for complying with the disclosure requirement in relation to the Securities Investment Segment.

- (3) He initiated discussions on accounting treatments with the Company's auditors from late September 2014.

33. Paul Suen admitted that:

- (1) He relied on Philip Suen to inform him about the investment gains of the Company.
- (2) He did not know why the Profit Alert was issued only in early November 2014.
- (3) He was the person responsible for the external affairs of the Group such as exploring and negotiating new investment opportunities. In relation to complying with the disclosure requirement under the Ordinance, he had largely delegated it to Philip Suen who is a fellow member of both the Hong Kong Institute of Certified Public Accountants and the CPA Australia. He did not know under what circumstances disclosure should be made and did not supervise the making of such disclosure.

34. Lau admitted that:

- (1) He mainly relied on the verbal report of Philip Suen in respect of the investment gains of the Company.
- (2) There had been no discussion by the board of directors on whether a positive profit alert should be announced in respect of the information contained in the August Management Accounts.

- (3) He did not know why the Profit Alert was announced only in November 2014.
- (4) He did not consider the question of issuing a profit alert announcement because he did not know the amount of gains which would pass the threshold and make an announcement necessary.
- (5) He was not familiar with the disclosure requirement under Part XIVA of the Ordinance.

35. Huang admitted that:

- (1) While he would receive the monthly management accounts of the Company, he would only read them after his secretary had printed hard copies for him as he did not check his email.
- (2) He did not know there was any disclosure requirement under the Ordinance. He signed the minutes of the meeting of the board of directors on 7 November 2014 only because he was told to do so.
- (3) He was not aware of any internal written procedures or guidance for the board of directors to ensure compliance with the disclosure requirement.

36. Weng admitted that:

- (1) None of the members of the board of directors raised the issue of whether disclosure was necessary in light of the financial performance of the Company as revealed in the August Management Accounts.

- (2) The independent non-executive directors relied on the executive directors (in particular, Philip Suen) in relation to compliance with the disclosure requirement under the Ordinance.
- (3) He was not aware of any procedures in the Company to ensure that it would comply with the disclosure requirement.

37. Wong admitted that:

- (1) He had not paid attention as to whether he had received any monthly management accounts of the Company and he had not read any of them.
- (2) He did not know why the Profit Alert was made only on 7 November 2014 and he did not raise questions to Philip Suen in relation to this issue.
- (3) As an independent non-executive director he relied on Philip Suen to consider the issue of disclosure.
- (4) He was not aware of any internal Company guidelines in relation to compliance with the disclosure requirement under the Ordinance.

E. FAILURE TO DISCLOSE INSIDE INFORMATION

38. The information relating to the 2014 Apr-Aug Financial Performance constituted “*inside information*” within the meaning of the definition of that term in section 307A(1) of the Ordinance.
39. The information relating to the 2014 Apr-Aug Financial Performance did, or alternatively, ought reasonably to have come to the knowledge of all

members of the board of directors including the 2nd to 7th Specified Persons, as officers of the Company, on or around 13 October 2014, by virtue of the 13 October Email.

40. A reasonable person, acting as an officer of the Company, would have considered that the information relating to the 2014 Apr-Aug Financial Performance was inside information in relation to the Company.
41. By reason of the aforesaid, the information relating to the 2014 Apr-Aug Financial Performance came to the knowledge of the Company through the 2nd to 7th Specified Persons (and in particular, Philip Suen) as its officers on or around 13 October 2014. Once such information came to the Company's knowledge, under section 307B(1) of the Ordinance, the Company was obliged to disclose that information to the public as soon as reasonably practicable. However, no disclosure in respect of the significant improvement in the Company's financial performance was made until the publication of the Profit Alert on 7 November 2014.

F. BREACH OF A DISCLOSURE REQUIREMENT BY THE COMPANY

42. By reason of the matters set out above, the Company failed to disclose to the public information in relation to the 2014 Apr-Aug Financial Performance (which constituted "*inside information*" within the meaning of the definition of that term in section 307A(1) of the Ordinance) as soon as reasonably practicable after the said inside information had come to its knowledge, contrary to section 307B(1) of the Ordinance.
43. Under section 307A(2) of the Ordinance, a breach of a disclosure requirement takes place if any of the requirements in *inter alia* section 307B is contravened in relation to a listed corporation.

44. Therefore, the Company was in breach of the disclosure requirement as provided for in section 307B of the Ordinance.

G. BREACH OF A DISCLOSURE REQUIREMENT BY THE 2ND TO 7TH SPECIFIED PERSONS

45. As officers of the Company, each of the 2nd and 3rd Specified Persons was in breach of the disclosure requirement under section 307G(2)(a) of the Ordinance as their negligent conduct has resulted in the breach of the disclosure requirement on the part of the Company, and each of the 2nd to 7th Specified Persons had not taken all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach under section 307G(2)(b) of the Ordinance.

46. By reason of the matters set out above, each of the 2nd to 7th Specified Persons was aware of, or alternatively ought reasonably to have become aware of, the inside information pertaining to the 2014 Apr-Aug Financial Performance (which revealed a significant improvement in the Company's financial performance) on or around 13 October 2014.

47. The 2nd Specified Person, Philip Suen, failed to ensure timely disclosure of the inside information pertaining to the 2014 Apr-Aug Financial Performance to the public after it had come to his knowledge. Such failure amounted to negligent conduct on his part under section 307G(2)(a) of the Ordinance:

- (1) Philip Suen was an executive director, company secretary and CEO of the Company.
- (2) According to the Company's annual report 2015, Philip Suen is a fellow member of HKICPA and the CPA Australia. He holds a bachelor's degree in Accountancy and a master's degree in Corporate Finance. He has over 15 years of experience in corporate

management and finance, and accounting and company secretarial practice. He was responsible for the accounting and finance matters for several other listed companies before he joined the Company.

- (3) He was the director who, according to the Operational Manual of the Company, should keep track of the Company's securities investment.
 - (4) He did not discuss with the other members of the board of directors on whether a positive profit alert should be announced in respect of the information contained in the August Management Accounts.
 - (5) He was the person responsible for complying with the disclosure requirement in relation to the Securities Investment Segment.
 - (6) He failed to take proper steps to ensure that the Company would comply with the disclosure requirement after receiving the August Management Accounts on 13 October 2014.
 - (7) In addition to the August Management Accounts, he also received the Investment Schedule which contains further details concerning the profits made by the Securities Investment Segment of the Company on 22 October 2014.
48. The 3rd Specified Person, Paul Suen, failed to ensure timely disclosure of the inside information pertaining to the 2014 Apr-Aug Financial Performance to the public after it had, or ought reasonably to have, come to his knowledge. Such failure amounted to negligent conduct on his part under section 307G(2)(a) of the Ordinance:
- (1) Paul Suen was an executive director and the Chairman of the Company.
 - (2) According to the 2014 annual report of the Company, he holds an MBA degree and has extensive experience in corporate management of business enterprises in Hong Kong and the PRC.

- (3) He had not taken the opportunity to read the unaudited consolidated management accounts sent to the board of directors from time to time and simply relied on Philip Suen to inform him about the investment gains of the Company.
 - (4) He had relied on Philip Suen to ensure compliance with disclosure requirement. He did not know under what circumstances disclosure should be made and did not supervise the making of such disclosures.
 - (5) He failed to take any steps to ensure that the Company would comply with the disclosure requirement after receiving the August Management Accounts on 13 October 2014.
49. Further, at all material times, there were no proper safeguards existing in the Company to prevent a breach of the disclosure requirement under Part XIVA of the Ordinance. Each of the 2nd to 7th Specified Persons had failed to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of the disclosure requirement (under Part XIVA of the Ordinance) pursuant to section 307G(2)(b) of the Ordinance.
50. In the circumstances, each of the 2nd and 3rd Specified Persons was in breach of the disclosure requirement pursuant to section 307G(2)(a) of the Ordinance as their negligent conduct has resulted in the breach of the disclosure requirement on the part of the Company and each of the 2nd to 7th Specified Persons was in breach of the disclosure requirement pursuant to section 307G(2)(b) of the Ordinance.

Dated this 16th day of September 2020.

Securities and Futures Commission :

Signed by : 
Name : Thomas Atkinson
Position : Executive Director
Date : 18/09/20

Witnessed by : 
Name : Margaret Tse
Position : Manager
Date : 18/09/20

For and on behalf of Suen Yik Lun Philip :

Signed by :



Name :

_____ SUEN YIK LUN PHILIP _____

Position :

Date :

_____ 22 Sept 2020 _____

Witnessed by :



Name :

_____ LO KA CHUN _____

Position :

_____ Solicitor _____

Date :

_____ 22 - 9 - 2020 _____

For and on behalf of Suen Cho Hung Paul:

Signed by :



Name :

Suen Cho Hung Paul

Position :

Date :

18 Sept 2020

Witnessed by :



Name :

CHAN SIU NGAN ZEFFANY

Position :

Executive Assistant

Date :

18 Sept 2020

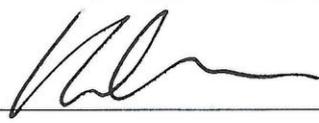
For and on behalf of Lau King Hang:

Signed by : 

Name : LAU KING HANG

Position : _____

Date : 22-09-2020

Witnessed by : 

Name : LO KA CHUN

Position : Solicitor

Date : 22-9-2020

For and on behalf of Huang Zhencheng:

Signed by : 黃真誠

Name : 黃真誠

Position : _____

Date : 18/09/2020

Witnessed by : 黃平

Name : 黃平

Position : _____

Date : 18/09/2020

For and on behalf of Weng Yixiang:

Signed by : 翁以翔

Name : 翁以翔

Position : _____

Date : 18/09/2020

Witnessed by : 曹惠萍

Name : 曹惠萍

Position : _____

Date : 18/09/2020

For and on behalf of Wong Kwok Tai:

Signed by :



Name :

Wong Kwok Tai

Position :

Date :

18/09/2020

Witnessed by :



Name :

Liu Siu Ping

Position :

Date :

18/09/2020

Annexure D

MARKET MISCONDUCT TRIBUNAL

IN THE MATTER OF THE LISTED SECURITIES OF
CMBC CAPITAL HOLDINGS LIMITED
(formerly known as Mission Capital Holdings Limited)
(STOCK CODE: 1141)

**Agreed Proposed Orders by the Securities and Futures Commission
and the Specified Persons**

1. Pursuant to section 307N(1)(a) of the Securities and Futures Ordinance (“SFO”), an order that, for a period of 15 months, the 2nd specified person must not, without leave of the Court of First Instance:-
 - a. be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation; or
 - b. in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation.
2. Pursuant to section 307N(1)(d) of the SFO, that:-
 - a. a regulatory fine of HK\$1,200,000 against the 2nd specified person to be paid within 28 days from the date of the order;
 - b. a regulatory fine of HK\$900,000 against the 3rd specified person to be paid within 28 days from the date of the order.
3. Pursuant to section 307N(1)(e) of the SFO:-
 - a. the 1st specified person pays to the Government one-seventh of the costs and expenses reasonably incurred by the Government in relation or

incidental to the Tribunal Proceedings (the “**Government’s Costs**”) up to 10 March 2020, to be taxed if not agreed.

- b. the 2nd to 7th specified persons jointly and severally pay to the Government six-sevenths of the Government’s Costs up to 10 March 2020 and the entire portion of the Government’s Costs from 11 March 2020, to be taxed if not agreed.

4. Pursuant to section 307N(1)(f)(i)-(iii) of the SFO:-

- a. the 1st specified person pays to the Securities and Futures Commission (the “**Commission**”) a total sum of HK\$203,711, being:-

- i. a sum of HK\$195,871 on account of costs and expenses reasonably incurred by the Commission in relation or incidental to the Tribunal Proceedings; and
- ii. a sum of HK\$7,840 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the investigation carried out before and/or for the purpose of the Tribunal Proceedings.

- b. the 2nd to 7th specified persons jointly and severally pay to the Commission a total sum of HK\$1,793,763, being:-

- i. a sum of HK\$1,746,720 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the Tribunal Proceedings.
- ii. a sum of HK\$47,043 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the investigation carried out before and/or for the purpose of the Tribunal Proceedings.

5. Pursuant to section 307N(1)(i) of the SFO, that each of the 2nd to 7th specified persons to undergo and complete a training programme, to be approved by the Commission, on compliance with Part XIVA of the SFO, directors’ duties and corporate governance within 90 days from the date of the order.

Further:

6. Pursuant to sections 307S(1) and 264(1) of the SFO, that written notice be given in order to register the above orders in the Court of First Instance.

Dated the 9th day of October 2020

Annexure E

HCMP1751 / 2020

IN THE MATTER OF
CMBC CAPITAL HOLDINGS LIMITED
(FORMERLY KNOWN AS MISSION CAPITAL HOLDINGS LIMITED)
(STOCK CODE: 1141)

MARKET MISCONDUCT TRIBUNAL PROCEEDINGS
PURSUANT TO SECTION 307I(2) OF AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE CAP. 571

IN THE MATTER OF the Market Misconduct
Tribunal Proceedings under section 307I(2) and
Orders made by the Market Misconduct
Tribunal on 12 October 2020 under section
307N(1) of the Securities and Futures
Ordinance, Cap. 571

AND

IN THE MATTER OF Sections 307S and 264
of the Securities and Futures Ordinance, Cap.
571

ORDER

WHEREAS it appears to the Securities and Futures Commission (the “**Commission**”) that a breach of the disclosure requirement within the meaning of sections 307A, 307B and 307G of Part XIVA of the Securities and Futures Ordinance, Cap. 571 (the “**SFO**”) has or may have taken place in relation to the securities of CMBC Capital Holdings Limited (formerly known as Mission Capital Holdings Limited) (Stock Code: 1141) (“**CMBC Capital**”) listed on the Stock Exchange of Hong Kong Limited

AND WHEREAS by the Notice dated 26 November 2018 issued by the Commission requiring the Market Misconduct Tribunal (the “**Tribunal**”) to conduct proceedings to determine:-

- (a) whether a breach of a disclosure requirement has taken place; and
- (b) the identity of any person who is in breach of the disclosure requirement.

UPON reading the Statement of Agreed and Admitted Facts signed by the Commission, CMBC Capital (1st specified person), Suen Yik Lun Philip (2nd specified person), Suen Cho Hung Paul (3rd specified person), Lau King Hang (4th specified person), Huang Zhencheng (5th specified person), Weng Yixiang (6th specified person) and Wong Kwok Tai (7th specified person) (collectively, the “**Specified Persons**”)

AND UPON HEARING the Presenting Officer appointed by the Commission and the respective Counsel for the Specified Persons

AND UPON the Tribunal having come to the finding that the 1st specified person was in breach of the disclosure requirement under section 307B(1) of Part XIVA of the SFO; and the 2nd and 3rd specified persons were in breach of the disclosure requirement under sections 307G(2)(a) and 307G(2)(b) of Part XIVA of the SFO; and that the 4th to 7th specified persons were in breach of disclosure requirement pursuant to section 307G(2)(b) of Part XIVA of the SFO

THE TRIBUNAL ORDERED that:-

1. Pursuant to section 307N(1)(a) of the SFO, an order that, for a period of 15 months, the 2nd specified person must not, without leave of the Court of First Instance:-
 - a. be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation; or
 - b. in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation.
2. Pursuant to section 307N(1)(d) of the SFO, that:-
 - a. a regulatory fine of HK\$1,200,000 against the 2nd specified person to be paid within 28 days from the date of the order.
 - b. a regulatory fine of HK\$900,000 against the 3rd specified person to be paid within 28 days from the date of the order.
3. Pursuant to section 307N(1)(e) of the SFO:-
 - a. the 1st specified person pays to the Government one-seventh of the costs and expenses reasonably incurred by the Government in relation or incidental to the Tribunal Proceedings (the “**Government’s Costs**”) up to 10 March 2020, to be taxed if not agreed.
 - b. the 2nd to 7th specified persons jointly and severally pay to the Government six-sevenths of the Government’s Costs up to 10 March 2020 and the entire portion of the Government’s Costs from 11 March 2020, to be taxed if not agreed.

4. Pursuant to section 307N(1)(f)(i)-(iii) of the SFO:-
 - a. the 1st specified person pays to the Commission a total sum of HK\$203,711, being:-
 - i. a sum of HK\$195,871 on account of costs and expenses reasonably incurred by the Commission in relation or incidental to the Tribunal Proceedings; and
 - ii. a sum of HK\$7,840 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the investigation carried out before and/or for the purpose of the Tribunal Proceedings.
 - b. the 2nd to 7th specified persons jointly and severally pay to the Commission a total sum of HK\$1,793,763, being:-
 - i. a sum of HK\$1,746,720 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the Tribunal Proceedings.
 - ii. a sum of HK\$47,043 on account of the costs and expenses reasonably incurred by the Commission in relation or incidental to the investigation carried out before and/or for the purpose of the Tribunal Proceedings.
5. Pursuant to section 307N(1)(i) of the SFO, that each of the 2nd to 7th specified persons to undergo and complete a training programme, to be approved by the Commission, on compliance with Part XIVA of the SFO, directors' duties and corporate governance within 90 days from the date of the order.

AND FURTHER ORDERED that:-

6. Pursuant to sections 307S(1) and 264(1) of the SFO, that written notice be given in order to register the above orders in the Court of First Instance.

Dated the 12th day of October 2020



The Honourable Mr. Justice Hartmann
Chairman,
Market Misconduct Tribunal

HCMP7 5 1 / 2020

IN THE MATTER OF THE LISTED SECURITIES OF
CMBC CAPITAL HOLDINGS LIMITED
(FORMERLY KNOWN AS MISSION CAPITAL
HOLDINGS LIMITED) (STOCK CODE: 1141)

MARKET MISCONDUCT TRIBUNAL PROCEEDINGS
PURSUANT TO SECTION 307I(2) OF
AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE CAP. 571

IN THE MATTER OF the Market Misconduct
Tribunal Proceedings under section 307I(2) and
Orders made by the Market Misconduct
Tribunal on 12 October 2020 under section
307N(1) of the Securities and Futures
Ordinance, Cap. 571

AND

IN THE MATTER OF Sections 307S and 264
of the Securities and Futures Ordinance, Cap.
571

ORDER

Dated the 12th day of October 2020.
Filed on the 16th day of October 2020.

Securities and Futures Commission
54/F, One Island East,
18 Westlands Road, Quarry Bay,
Hong Kong
Tel: (852) 2231 1222
Fax: (852) 2521 7884