

SGX RegCo 2022 Regulatory Updates: ***Recent Regulatory Developments and*** ***Directors' Duties***

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The Role of Directors

- Red Flag Indicators
- “Jump Ship” Directors

SGX RegCo’s Enhanced Enforcement Powers

- Key Changes
- Issuer Whistleblowing Policy

Regulator’s Column

- Conduct of AGM amid the Ongoing COVID-19 Situation

- Directors play a crucial role in ensuring the proper governance and commercial success of listed issuers
- It is critical for ACs to be vigilant in watching out for signs of financial distress and / or irregularities
- Financial risk indicators can assist ACs to discharge their duties by highlighting **red flags** in issuers' financial statements

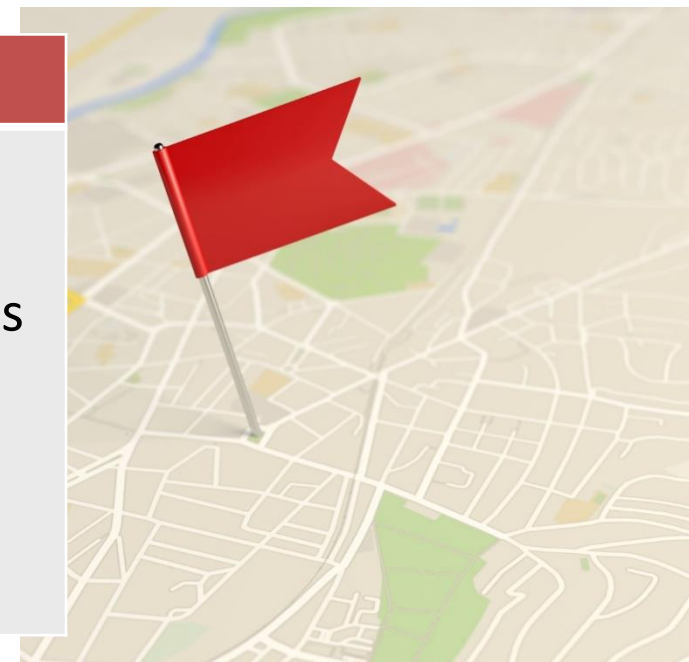


Indicator – Existence of Non-Current Receivables

- Potential concerns on the validity of sales and / or collectability issues

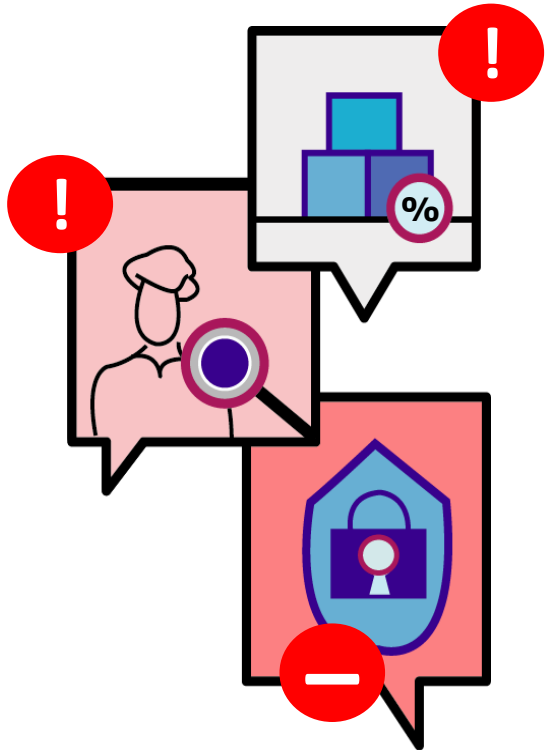
Suggested Questions and Disclosure

- a. Background, nature and breakdown of non-current receivables
- b. Board's assessment of the recoverability of non-current receivables
- c. Whether non-current trade debtors are interested persons and/or related parties and if so, whether Chapter 9 of the Listing Manual has been complied with



Indicator – Significant Advances or Prepayments

- Question as to legitimacy and recoverability of advances or prepayments



Suggested Questions and Disclosure

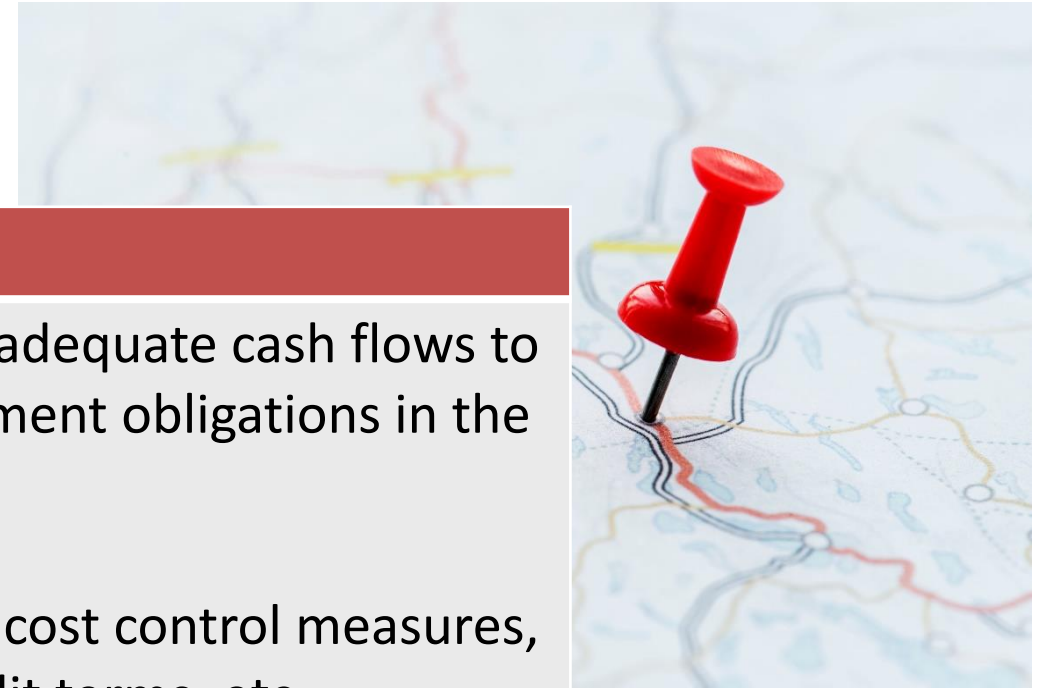
- a. Reasons as to necessity of advances and/or prepayments
- b. Breakdown and terms of advances and/or prepayments
- c. Identity of supplier and whether it is a related party of the Group/Company
- d. Controls in place for such payments, for example, approval limits

Indicator – Cash Coverage Ratio

- A measure of liquidity risk

Suggested Questions and Disclosure

- a. Steps taken by the Company to continue generating adequate cash flows to meet working capital needs and fulfil significant payment obligations in the next 12 months
- b. Detailed information on unutilized banking facilities, cost control measures, negotiations with named suppliers for extended credit terms, etc
- c. The Company's cash flow management and its ability to fulfil its financial obligations



“Jump Ship” Directors



- SGX RegCo has noted several instances when directors resigned from listed issuers shortly before or after the company is issued with a modified audit opinion / emphasis of matters, and / or prior to the need for independent review or special audit
- In the face of potential material irregularities or uncertainties, such issuers are at relatively higher risk
- Directors should not “jump ship” and place the company in jeopardy / compromise the company’s ability to look into the matters of concern

- In most instances, shareholders’ interests will be better served by directors staying on the board and helping to guide the company to look into and resolve the matters of concern
- Appointing a new member to the board and AC will take time and is even more arduous for a company with going concern issues
- A company needs continuity in its steering hands to guide it through the tempest

Key Changes – Effective since 1 August 2021



1. Issue a public reprimand and require an issuer to comply with specified conditions



2. Prohibit

- a) An issuer from accessing the facilities of the market for a specified period or until fulfilment of specified conditions;
- b) Any issuer from appointing or reappointing a director or an executive officer for up to 3 years;
- c) Require a director or executive officer to resign

If the individual is being investigated or is the subject of proceedings for contraventions of any relevant laws, regulations and rules relating to fraud, dishonesty, the securities or futures industry, corruption or breaches of fiduciary duties

Key Changes – For FY Commencing 1 January 2021

3. **Mandate** all issuers to establish and maintain a **whistleblowing policy**, and state in their annual reports that such a policy is in place for annual reports relating to FYs commencing on or after 1 January 2021, as well as an explanation of how they have complied with key requirements

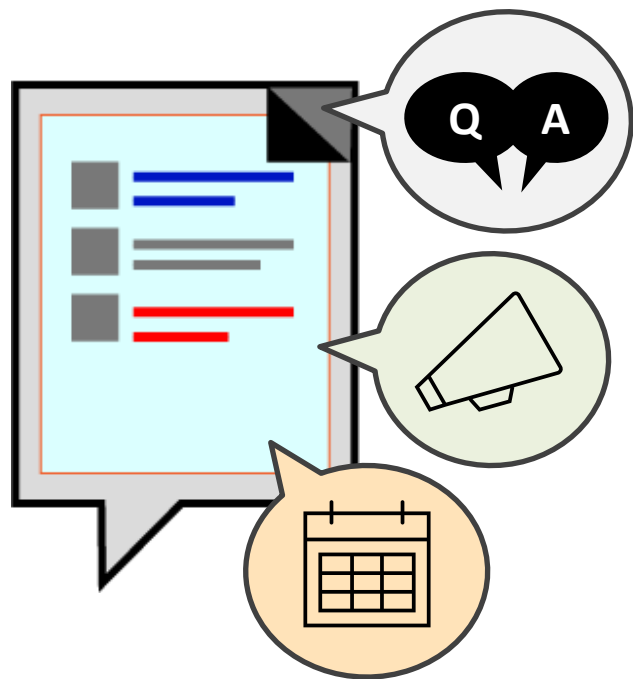


- Declaration in annual report
- Compliance with best practices on whistleblowing:
 - a) Designating independent function for investigations
 - b) Ensuring whistleblower's identity is kept confidential
 - c) Disclosure of commitment to ensure protection of whistleblower against detrimental or unfair treatment
 - d) Audit Committee to be responsible for oversight and monitoring of whistleblowing



Conduct of General Meetings amid COVID

Regulator's Column released on 16 December 2021



- Issuers which do not utilize both (i) **real-time remote electronic voting** and (ii) **real-time electronic communication** at their general meetings, should incorporate the following practices in their conduct of general meetings, in addition to the checklist set out in the Guidance on the Conduct of General Meetings Amid Evolving COVID-19 Situation dated 1 October 2020.
- This will take effect for any notice of general meeting served after 1 January 2022.

Conduct of General Meetings amid COVID

1. Issuers to organise a virtual information session for certain corporate actions

(a) transfer of an SGX Catalist listing to the SGX Main Board pursuant to Catalist Rule 408 / Mainboard Rule 212

(b) transfer of an SGX Main Board listing to the SGX Catalist Board pursuant to Catalist Rule 410

(c) issue of shares or convertible securities which require approval of shareholders in a general meeting under Mainboard Rule 805 / Catalist Rule 805, except where the issue of securities is pursuant to an employee or performance share/share option plan, bonus issue, scrip dividend, or stock/share split or consolidation

(d) capital reduction or distribution

(e) interested person transaction requiring specific shareholders' approval pursuant to Mainboard Rule 906 / Catalist Rule 906

(f) major transaction under Mainboard Rule 1014 / Catalist Rule 1014

(g) very substantial acquisition or reverse takeover under Mainboard Rule 1015 / Catalist Rule 1015

(h) whitewash resolution

(i) scheme of arrangement

(j) delisting pursuant to Mainboard Rule 1307 / Catalist Rule 1307

(k) proposed diversification of business; and

(l) any other corporate action which SGX RegCo considers appropriate

Conduct of General Meetings amid COVID

2. When organizing any virtual information session, issuers are encouraged to send their notice of general meeting to shareholders at least 21 calendar days before the general meeting

3. After the publication of the notice of general meeting, shareholders should be allowed at least 7 calendar days to submit their questions



4. All substantial and relevant questions received from shareholders prior to a general meeting, should be publicly addressed by the Board of Directors and/or management at least:-

- i) **48** hours prior to the closing date and time for the lodgment of the proxy forms, if the notice of general meeting is to be sent to shareholders at least **14** calendar days before the meeting; and
- ii) **72** hours prior to the closing date and time for the lodgment of the proxy forms, if the notice of general meeting is to be sent to shareholders at least **21** calendar days before the meeting. For the avoidance of doubt, this is also applicable for the list of corporate actions in which a virtual information session should be organized.

Thank You!