

## MINORITY SHAREHOLDERS WATCH GROUP

BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD  
(Incorporated in Malaysia – Registration No.: 200001022382 (524989-M))

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# Unprecedented risk of scrapping rights issue and its implications for shareholders

On Feb 27, Dolphin International Bhd (DIB) announced that the company proposed to undertake the following exercises:

- Proposed reduction of Dolphin's issued share capital pursuant to Section 116 of the Companies Act 2016 (Proposed Capital Reduction);

- Proposed renounceable rights issue of up to 412.08 million new shares in Dolphin (Dolphin shares) (rights shares) together with up to 247,225 million free detachable warrants (Warrants-B) at an issue price of six sen per rights share on the basis of five rights shares for every four existing Dolphin shares owned with three free detachable Warrants-B for every five rights shares subscribed (Proposed Rights Issue);
- Proposed capitalisation of amounts owing by Dolphin and its subsidiaries (Dolphin Group) to its identified creditors and a shareholder with an aggregate amount of approximately RM7.2 million via the issuance of 94.69 million new Dolphin shares at an issue price of 7.6 sen each (Proposed Capitalisation);
- Proposed acquisition of the entire equity interest or six million shares in Asia Poly Food and Beverage Sdn Bhd (AP F&B) by DIB from Uncle Don's Holdings Sdn Bhd and Asia Poly Holdings Bhd (APH) for RM22.0 million to be satisfied via the issuance of 131.58 million new Dolphin shares at an issue price of 7.6 sen each and RM12.0 million cash (Proposed Acquisition); and
- Proposed diversification of DIB's principal activities to include the undertaking and provision of food and beverage services and related activities (Proposed Diversification).

The Proposed Rights Issue, Proposed Capitalisation, Proposed Acquisition and Proposed Diversification are inter-conditional upon each other. The ex-date for the rights issue (RI) was July 23 and the ordinary rights (OR) was created on July 24. The trading period for the OR was from July 27 until Aug 4. The closing date for acceptance and excess share application, together with the payment, was on Aug 11.

**Extension of the closing date for acceptance and excess share application**  
Everything went on well until the closing date



MY Say

BY DEVANESSAN EVANSON

for acceptance and payment on Aug 11, when the company announced that the last date and time for the acceptance and payment for the rights shares as well as the application and payment for excess rights shares with Warrants-B (subscription deadline) had been extended to Sept 10, 5pm.

The extension of time was to allow DIB to conduct an independent forensic investigation in relation to the alleged breach of fiduciary duty by its managing director Low Teck Yin, who had been suspended from Aug 7 (DIB's announcement dated Aug 7).

Consequently, the board was of the opinion that the outcome of the forensic investigation, which involved the amount owing to one of the creditors under the Proposed Capitalisation exercise, would need to be determined before the rights issue could continue in view of the fact that the Proposed Capitalisation and the rights issue are inter-conditional.

### Risk of aborting the rights issue

Should the forensic investigation not be completed by Aug 26 or if the forensic investigation is unable to validate the amount owing to the said creditor, the company would not proceed further with the rights issue.

Henceforth, the company has given entitled shareholders who have already subscribed for the rights shares (and/or excess rights shares) with Warrants-B on or prior to Aug 11 an option to withdraw their application in accordance with Section 239(2) of the Capital Markets and Services Act 2007.

Shareholders who wish to continue with the application may have to bear with the Sept 10 deadline or await the outcome of the pending forensic investigation.

The development has caught shareholders by surprise. It is unprecedented for companies to extend the closing date for acceptance and excess share application of rights issue on the very last day of the closing date with the imminent risk of termination.

The shareholders and investors are now stuck in limbo.

### The Implication

DIB's shareholders would have already exercised the following options, or a combination of them,

from the day the OR was created up until the closing date for acceptance and payment under the Proposed Rights Issue exercise:

- Subscribe to the rights issue;
- Sell the rights to subscribe for the rights shares (as OR) in the open market; and
- Ignore the rights issue.

Trading of the OR in the open market will create a group of new investors who have purchased the rights to subscribe to the rights shares of the company.

So what is the implication to the existing shareholders and potential new shareholders if the company decides to abort the exercise?

On the ex-date July 23, the share price of DIB would have been adjusted to reflect the ex-right price, which is lower than the closing price of the previous trading day.

This will cause loss on the value of existing shareholdings. Shareholders who had ignored the rights to subscribe (not normally recommended) will have their interest in the company diluted due to the extra rights shares issued by the company.

Shareholders who had subscribed for the rights issue or sold the rights will be "compensated" by the gain in share value when the new rights shares are listed for trading, or from the proceeds they receive from the sale of the OR.

If DIB decides not to proceed with the remaining proposals, it will refund all subscription monies received pursuant to the Proposed Rights Issue without interest to the subscribing entitled shareholders.

However, refunding the subscription monies to shareholders who subscribe for the rights shares will not "compensate" existing shareholders who suffered a loss in their investment due to the lower adjusted share price on the ex-date, as well as investors who bought the OR on the open market but only received the money they paid for the subscription of rights shares. The key question that lingers in the mind of shareholders or rights-holders is who shall compensate them for these losses.

As the proposals announced are inter-conditional upon each other, the Proposed Acquisition of AP F&B is at stake. The Proposed Acquisition will also be terminated should the Proposed Rights Issue be aborted.

## Rights issue cancellation must be viewed seriously

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This will have an impact on the shareholders of APH. APH should make the necessary announcement on the probable cancellation of the disposal.

This unprecedented cancellation of the rights issue exercise must be viewed seriously. The market regulator(s) should consider prohibiting the rights issue from being withdrawn after its ex-date as unwinding the positions of parties involved is a messy and complicated process.

Even if such cancellation is permitted, regulators should hold the relevant parties ac-

countable for such an action; there must be accountability.

Besides, such cancellations also raise the question of whether sufficient due diligence was conducted before the proposals were put up for shareholders' approval. Allowing the rights issue to be terminated after the ex-date may condone and set a precedent for similar events in the future. ■

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