



Securities Investors Association (Singapore)

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UEN No: S99SS0111B

GST Reg No: M90367530Y

Issuer: EMS Energy Limited

Security: EMS Energy Limited

Meeting details:

Date: 29 June 2018

Time: 9.00 a.m.

Venue: 25 International Business Park, Level 5, East Wing, Munich Room, German Centre, Singapore 609916

Company Description

Not available

(Source: http://www.sgx.com/wps/portal/sgxweb/home/company_disclosure/stockfacts?code=420)

1. The High Court sanctioned the company's scheme of arrangement on 8 September 2017 and under the debt-to-equity conversion exercise, up to 725,000,000 new ordinary shares will be allocated to the creditors under the scheme at S\$0.08.

In addition, one of the wholly-owned subsidiaries, Koastal Industries Pte Ltd ("KIPL") had also sought court protection on 28 September 2016 to restructure its debt obligations and liabilities but the application for a scheme of arrangement of KIPL was withdrawn on 28 July 2017 due to a condition precedent not met. Since the withdrawal, KIPL has been placed under creditors' voluntary liquidation on 24 October 2017.

The company acquired the Koastal Group in October 2015 for \$150 million, with \$31.3 million paid in cash and the balance paid in shares. The vendors were Mr. Ting Teck Jin and Mr. Ting Teck Seh.

Within 11 months of Koastal's acquisition, KIPL had to apply to the High Court for a scheme of arrangement to restructure.

- (i) Can management help shareholders understand the level of due diligence carried out prior to the acquisition in October 2015?**
- (ii) How did the market conditions change so drastically in 2015-2016 that led KIPL to seek court protection so soon after the group's acquisition?**
- (iii) What were the assumptions and projections used by management to justify the acquisition of KIPL?**
- (iv) What was the board's level of involvement in the acquisition of KIPL? Were professional valuers used to help the company in assessing the target? Specifically, did the independent directors approve the acquisition of KIPL?**
- (v) As the acquisition was deemed an interested person transaction, did the conflicted director(s) recuse himself from all of the board's deliberation related to the matter?**
- (vi) A cash consideration of \$31.3 million was paid to the vendors, Mr. Ting Teck Jin and Mr. Ting Teck Seh. Can the board/company explain how the cash amount of \$31.3 million was determined?**
- (vii) As the company is going through a restructuring and will be looking at opportunities to strengthen the group's financial position, would the board consider it necessary to carry out a review of prior acquisitions and strengthen its investment/valuation framework?**

2. On 8 June 2018, the company announced that the independent auditors of the company, BDO LLP, has issued a disclaimer of opinion in the independent auditors' report in respect of the company's consolidated financial statements for the financial year ended 31 December 2017.

The basis for Disclaimer of opinion included:

- Going Concern and Completeness of Liabilities
- Impairment of Property, plant and equipment
- Recoverability of Trade and other receivables
- Recoverability of amounts due from deconsolidated subsidiaries
- Impairment of available-for-sale financial assets – Investment in unquoted equity shares
- Valuation of financial derivative liabilities

The independent auditor was unable to obtain sufficient appropriate audit evidence to support management's preparation of the financial statements and was also unable to satisfy themselves on the appropriate accounting treatment through alternative means.

In the Directors' Statement (page 35), the directors have stated that, in their opinion:

“the consolidated financial statements of the Group and the statement of financial position of the Company together with the notes thereon are drawn up so as to give a true and fair view of the financial position of the Group and of the Company as at 31 December 2017, and of the financial performance, changes in equity and cash flows of the Group for the financial year then ended”

- (i) Would the directors, especially Mr Lim Siong Sheng as Lead independent director and chairman of the Audit Committee (AC), justify the opinion of the directors (above) given that the Independent Auditor issued a disclaimer of opinion in their report?**
- (ii) The auditors have cited the inability of management to provide audit evidence to address their audit queries. What were the directors' efforts in facilitating the auditors in their audit? What were the findings of the AC's review of the co-operation given by the group's officers to the external auditors?**
- (iii) How will the AC resolve the issues brought up by the independent auditors as detailed in the basis for the disclaimer of opinion?**

3. For the financial year ended 31 December 2016, the company announced that it had made certain material adjustments and reclassifications to the Unaudited Results following the finalisation of the audit in an announcement titled “Discrepancies between Unaudited and Audited financial statements for the financial year ended 31 December 2016” dated 13 October 2017.

For the financial year ended 31 December 2017, the company once again announced that there were certain reclassifications following the finalisation of the audited financial statements of financial year ended 31 December 2017.

Reasons given for the material adjustments and reclassifications include:

- Reclassification from “Foreign currency translation reserve” to “Profit or loss”

- Reclassification from “Trade and other receivables” to “Amount due from deconsolidated subsidiaries”
- Reclassification from “Trade and other payables” to “Amount due to deconsolidated subsidiaries”
- Reclassification from “Impairment loss on available-for-sale financial assets” to “Unrealised exchange differences”
- Reclassification of cash flow arising from “Purchase of property, plant and equipment” in investing activities” to “Trade and other payables” in operating activities.

(i) As management is responsible for the preparation of financial statements to give a true and fair view in accordance with the provisions of the Act and FRSS, how can shareholders get the assurance from the CEO and management that the financial statements are prepared in accordance with the provisions of the Act and FRSS?

(ii) As directors’ responsibilities include overseeing the group’s financial reporting process, can the board help shareholders understand how it has helped management to improve its financial reporting?

(iii) Is the company’s finance/reporting function sufficiently resourced with suitably qualified and experienced persons?

In the company’s report on Corporate Governance, under Guideline 12.2, the company has stated that “[a]t least two (2) members of the AC, Mr Lim Siong Sheng and Mr Lim Poh Boon have the appropriate accounting or related financial management expertise and experience” (page 30).

(iv) Would the AC members elaborate further on their individual involvement in the preparation of the financial statements?

(v) Would the AC members also help shareholders understand their recent and relevant accounting experience?

A copy of the questions for the Annual Report for the financial year ended 31 December 2016 could be found here:

<https://sias.org.sg/qa-on-annual-reports/?company=EMS%20Energy%20Ltd>

The company’s response could be found here: -----