

19 June 2023

MAA GROUP BERHAD (471403-A) (“MAA”)
The Board of the Directors
13th Floor, No. 566, Jalan Ipoh
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Company Secretary:
Ms Lily Yin Kam May (MAICSA No. 0878038)
CEO-MAAG@maa.my
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And its Auditors

Messrs PricewaterhouseCoopers PLT (LLP0014401-LCA & AF 1146) (“PWHC”)
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And

KNM GROUP BERHAD (521348-H) (“KNM”)
The Board of the Directors
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Company Secretary:
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And its Auditors

KPMG PLT (“KPMG”)
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Mr. Chan Kam Chiew, Mr. Ooi Eng Siong, Ms. Yam Ze Ming, Ms. Kong Yee Han
Ytai@kpmg.com.my

And its indirect wholly-owned Subsidiary

FBM Hudson Italiana S.p.A. (“FBM” or the “Company”)
The Board of the Directors
The Board of the Statutory Auditors
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And its Auditors
Messrs. KPMG S.p.A.
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And

MINORITY SHAREHOLDERS WATCH GROUP (“MSWG”)
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And

Securities Commission Malaysia (“SCM”)
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Dear Recipients,

Subject: MAA Letter of (financial) Assurance (attached). Comprehensive Whistleblower Report: Fraudulent Misrepresentation, Breach of Fiduciary Duties, and Fraudulent Inducement

This comprehensive report identifies violations involving MAA Group Berhad, in its capacity as controlling shareholder of FBM Hudson Italiana’s ultimate holding company (KNM Group Berhad), the same KNM Group Berhad (also a publicly listed company on Bursa Malaysia), and FBM Hudson Italiana. The detailed sequence of events suggests systematic fraudulent behaviours that have deliberately led FBM (a KNM Group Asset) to the brink of financial insolvency, significantly impacting creditors, shareholders, and other stakeholders across the involved entities.

The indirect impact of any such behaviours has resulted in violations of Listing Requirements in Malaysia, as the board of directors of the listed company MAA did not ensure that the provision of financial assistance to a subsidiary of one of its subsidiaries (single digit hold) was fair and reasonable to MAA and not detrimental to the listed company and its shareholders. Furthermore, it is believed that the liability of MAA, as generated by the said Letter of (Financial) Assurance described below, breaches the threshold of materiality and was issued without Board approval and without any consultation with the shareholders of MAA.

As of the Date of this letter, the total value of the Guarantee is EURO 5 million (RM 22.3 million) representing approximately 25% of the total Market Cap of MAA.

BACKGROUND & FACTUAL BASIS OF CLAIMS

MAA issued as early as November 2022 a letter directed to the Auditors of FBM and to the Board of the Statutory Auditors of the same Company, containing a legally binding and enforceable financial assurance (de facto a guarantee) (hereinafter the “Letter of Assurance”) promising to inject a capital sum of €5 million or more into FBM in the event that “the BORSIG Disposal did not occur”.

It is worth pointing out that the “BORSIG Disposal” was by far the largest corporate exercise undertaken by KNM, aimed to capitalize its largest and most valuable asset as the meaning to settle the critical indebtedness of KNM.

This Letter of Assurance was treated as a validly issued, binding and enforceable financial assurance by all stakeholders including creditors, auditors, and shareholders, shaping financial decisions and investment behaviours of all stakeholders.

As a matter of interpretation:

- MAA acknowledges that the €5 million “increase of capital” is essential pre-condition for the Auditors’ completion of the statutory audit;
- MAA recognizes and understands the Auditors’ expectations;
- MAA declares that “the growth of the Company” is part of its strategic investment plan, and states it has a “clear understanding of the Company’s planned capital increase”;
- MAA goes even beyond in declaring that they will not do “anything to jeopardize the ability of the Company (Beneficiary) to operate as a going concern.

The mechanics of the legal undertaking of MAA is made clear at point 3 of the said (attached hereto) Letter:

In summary:

- Upon successful Closing of the disposal of BORSIG (expected and announced by 30 November 2022), “MAA will ensure and cause the Ultimate Holding KNM to utilize part of the proceeds in the amount sufficient to meet the requirements of the (capital) increase (of FBM)”
- “If the Closing of the BORSIG Disposal does not take place at all (which thing actually happened) MAA will ensure and cause a third party to undertake the increase of share capital of the Company” at the very same conditions.

We are told that the controlling shareholder of KNM, represented by Tunku Dato' Yaacob Khyra (“TY”) eventually caused the Board of the Directors of KNM to pass the resolution approving the termination of the announced Share Sale & Purchase Agreement dated 23 May 2022, substantially collapsing a deal which was already completed and pending payment.

It goes without saying that the Company found itself, after the fatal decision to collapse the corporate M&A is taken, with only one card to play in the hope of having its statutory audit completed (by year end 2022) with a going concern: enforcing the Letter of Assurance

However, in a dubious and rapid turn of events, FBM's directorship and the Company's top Management were substantially replaced just days after the termination of the BORSIG deal (public announcement 1.12.2022) and interestingly just days before the year end.

The newly appointed directors in FBM were (and still are) the expression of the interests of MAA and its controlling shareholder Tunku Dato' Yaacob Khyra, hence in blatant conflict of interest whether we consider the impellent need to enforce the MAA financial assurance.

This shift strategically prevented the Financial Assurance from being exercised.

TY, who controlled, originated or master-minded all of the above actions, subsequently refused to allow the guarantee to be enacted, breaching fiduciary duty and arguably committing fraudulent misrepresentation.

Currently, FBM is in a precarious financial position due to the numerous insolvencies created by TY's actions, such as the impossibility to timely perform obligations, make payments to lenders, and honour the immensely important commercial needs of the company.

We have been reported that these unpaid debts have resulted in FBM Statutory Auditors issuing an ultimatum mandating that the company be sold to a shareholder capable of injecting the necessary capital to resolve the financial default and circumvent liquidation. TY accepted an offer of €12 million, far below the asset value, thereby putting KNM's assets at risk of a fire sale.

We are also finally told (and there are numerous supporting evidence about it coming from the Italian asset) that the originally planned increase of capital of €5 million back in October-November 2022 would have been enough to stabilize the Company, settle the immediate financial requirements and qualify FBM as a the going concern.

FRAUDULENT INDUCEMENT

In broad terms, this scenario is compounded by an instance of fraudulent inducement arising from the Letter of Assurance. This document was used to induce creditors into extending credit and shareholders into maintaining and expanding their investments, based on the expectation that the guarantee would secure FBM's financial situation. The misrepresentation of the guarantee has thus caused significant damages to all Stakeholders.

The patience from KPMG was based on the assurance provided by the Letter of Assurance, but this was, as we can now ascertain, under false pretences.

LEGAL IMPLICATIONS

Under the relevant laws, these actions potentially constitute fraudulent misrepresentation, breach of fiduciary duty, and fraudulent inducement.

Fraudulent Misrepresentation: In accordance with Malaysian law, it must be shown that a representation was made with knowledge that it was false, intended to be acted upon, and that the claimant has sustained damage by acting on the false statement.

Breach of Fiduciary Duty: Under the Malaysian Companies Act 2016, directors are required to act in the best interests of the company, avoid conflicts of interest, and refrain from making secret profits from their position. The replacement of the FBM director just days before the deadline and the subsequent refusal to honour the guarantee arguably contravene these rules.

Fraudulent Inducement: Malaysian Penal Code Section 415 stipulates that fraudulent inducement, which involves causing damage to another party through deceit or false promises, is a punishable offence.

CONCLUSION

We strongly urge FBM Management to invoke (read: enforce) the Letter of Assurance and MAA to fulfil its obligations to prevent further detrimental actions. The overwhelming conflicts of interest in this case are not serving the best interests of all parties involved, particularly those of KNM and its shareholders.

NOTICE OF ACCOUNTABILITY

This letter serves as a notice to the Board of Directors of potential repercussions from shareholders for any losses incurred due to these violations. This report will also be submitted to all applicable regulatory bodies in Italy and Malaysia for appropriate action.

We seek immediate attention to this matter and request that appropriate corrective measures be taken to prevent further financial deterioration of the involved entities. We are confident that the regulatory bodies in both countries will take appropriate action to ensure justice, transparency, and corporate governance.

TY has a long history of attacking professionals and organizations by threatening them with special powers his royal title apparently grants him. This includes suspension of permits and licenses, creating false investigations, intimidation through abuse of his perceived powers and connections. Therefore, to protect myself and those close to the matter, I submit this report anonymously under the protection of the whistleblower programs.

Yours sincerely,

MAA Whistleblower

Attachments: Signed Letter of Assurance

P.S. I may be reached for further evidence supporting this report at the email address:

whistleblower4maa@protonmail.com