

## DISCIPLINARY DECISION NOTICE

11 August 2017

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1. NEX Exchange Limited (“**Exchange**”) announces that a NEX Exchange corporate adviser (“**corporate adviser**”) has been privately sanctioned and fined by the Membership, Admissions and Enforcement Committee of the Exchange. The Exchange is publishing details of this disciplinary action in this Notice, on an anonymous basis, for the purposes of emphasising the importance of complying with the rules of the Exchange.
2. The private sanction relates primarily to a breach of paragraphs 32 and 43 of the NEX Exchange Corporate Adviser Handbook (the “**Handbook**”) in respect of failing to:
  - ensure that, so far as reasonably practicable, an issuer complies with the NEX Exchange Rules for Issuers (the “**Issuers Rules**”) in circumstances where a NEX Exchange company should have been advised to release an announcement updating the market of a change in its financial position in accordance with Rule 31 of the Issuers Rules; and
  - liaise with the NEX Exchange regulation department as soon as practical in relation to (i) circumstances which might require the suspension of trading of an issuer and (ii) correct information provided to NEX Exchange which came to the corporate adviser’s attention as being incorrect.
3. The circumstances relating to the breach arose when a NEX Exchange company failed to take reasonable care to provide an update to the market following the publication of an announcement and admission document which notified the market that a specified sum in connection with a fund raise would be received by it on admission. The funds were not received on admission and the company did not immediately notify the market of that fact. It is significant that the funds due to the company were material to its finances.
4. The corporate adviser was fully aware that the funds had not been received as expected and had discussed the matter with the company. Nevertheless, the corporate adviser failed to advise the company of its obligation to update the market. Furthermore, the corporate adviser failed to liaise with the NEX Exchange regulatory department in respect of the non-receipt of funds in circumstances where such non-receipt might require the regulatory department to suspend the company from trading.
5. The role of the corporate adviser is to advise and guide NEX Exchange companies on their obligations under the Issuer Rules. In the circumstances set out herein, the Exchange considers the corporate adviser’s performance in providing appropriate advice and guidance fell below the standard expected. Pursuant to paragraph 43 of the Handbook, corporate advisers have a number of key responsibilities to the Exchange, including a responsibility to liaise with NEX Exchange as soon as practical in relation to, inter alia, (i) circumstances which might require the

suspension of trading of an issuer, (ii) any information previously provided to NEX Exchange which has come to its attention as being incorrect or otherwise misleading and (iii) if it believes that its client issuer is no longer suitable to retain its NEX Exchange trading facility. Paragraph 32 of the Handbook requires corporate advisers to ensure that, so far as reasonably practicable, issuers comply with the Rules for Issuers.

6. The corporate adviser took the view that, relying on various representations, the funds would be received, albeit on a new timetable. The Exchange does not consider that these representations obviated the company's obligations to update the market with the fact that the funds had not been received by the company in line with the timetable and for such amount as originally notified.
7. In determining the sanction, the Exchange has taken into account a number of factors including that the circumstances that gave rise to the sanction were isolated, the corporate adviser's previous compliance history and the fact that the corporate adviser fully co-operated with the Exchange's subsequent investigation and disciplinary action.

**Philip Olm**  
**NEX Exchange Regulation**