



COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD

OF 2022 (DDJ)

ACT OF THE COMPANIES ACT (2022 REVISION)

AND IN THE MATTER OF SHINSUN HOLDINGS (GROUP) CO., LTD.

WINDING UP PETITION

To the Grand Court

The humble petition of Shenwan Hongyuan Strategic Investments (H.K.) Limited ("**Shenwan**") of Level 19, 28 Hennessy Road, Wanchai, Hong Kong (the "**Petitioner**") shows that:

Preamble

1. The Petitioner presents this petition for the winding up of Shinsun Holdings (Group) Co., Ltd. (the "**Company**") and the appointment of joint official liquidators to the Company.
2. The Petitioner seeks the winding up of the Company pursuant to Section 92(d) of the Companies Act (2022 Revision) (the "**Companies Act**") on the grounds that the Company is unable to pay its debts.
3. The Petitioner is a contingent creditor of the Company by virtue of holding the ultimate beneficial interest in certain Notes (as defined below) issued by the Company, and having a contingent right to delivery of physical securities in exchange for its interests in the global security.
4. Terms used herein which are not otherwise defined have the meaning given in the Indenture (as defined below).

The Company

5. The Company is an exempted limited company incorporated under the laws of the Cayman Islands on 13 December 2019 and assigned company number 358350. The registered office of the Company is situated at C/- Conyers Trust Company (Cayman)

Limited, PO Box 2681, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands.

6. The Company was listed on the Main Board of the Stock Exchange of Hong Kong ("**HKEx**") on 18 November 2020, having a stock code HKG:02599.
7. The Company's principle business includes developing and selling properties in the People's Republic of China ("**PRC**"), through property development, property leasing, hotel operations, and provision of property management services.

The Petitioner

8. Shenwan is a limited liability company incorporated in Hong Kong, with its registered office at Level 19, 28 Hennessy Road, Wanchai, Hong Kong.

The Indenture

9. On 18 August 2021, the Company entered into an Indenture (the "**Indenture**"), to provide for the issuance of up to US\$200,000,000 in aggregate principal amount of 12% Senior Notes due 2023 (the "**Notes**").
10. The Trustee under the Indenture is China Construction Bank (Asia) Corporation Limited (the "**Trustee**").
11. Pursuant to the terms of the Indenture:
 - (a) **Section 2.01**: upon the execution and delivery of the Indenture, or from time to time thereafter, the Company was authorised to execute and deliver Notes in an initial aggregate principal amount of not more than US\$200,000,000;
 - (b) **Section 2.04(c)**: the Company was authorised to issue one or more global notes ("**Global Note(s)**");
 - (c) **Section 2.04(d)**: each Global Note was required to be delivered to China Construction Bank (Asia) Corporation Limited as common depository or any successor common depository for Euroclear and Clearstream (the "**Depository**") and registered in the name of CCB Nominees Limited as the nominee for the Depository (the "**Holder**");

12. The Indenture further provides that

- (a) **Section 4.01(a):** *"The Company shall pay the principal of, any premium on (if any) and interest, and Additional Amounts, if any, on the Notes on the dates and in the manner provided in the Notes and this Indenture. Not later than 4:00 pm (Hong Kong time) one Business Day prior to the Interest Payment Date, the due date of any principal on any Notes, the Tax Redemption Date pursuant to Section 3.01 or the redemption date pursuant to Section 3.02 (each a "Payment Date"), the Company will pay or cause to be paid to the account of the Paying and Transfer Agent [...] in immediately available funds, an amount which shall be sufficient to pay the aggregate amount of interest, principal or premium or all of such amounts, as the case may be, becoming due in respect of the Notes on such Payment Date [...]"*

Section 4.01(c): *"The Paying and Transfer Agent, [...] will make payments in respect of the Notes represented by the Global Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Global Notes. With respect to Certificated Notes, the Paying and Transfer Agent will make all payments by wire transfer of immediately available funds to the accounts specified by the Holders thereof; provided that if the Company or any Affiliate of the Company is acting as paying and transfer agent, it shall make such payment to the Holders as specified above or, if no such account is specified, by mailing a check (at the expense of the Company) to each Holder's registered address." Pursuant to the relevant clearing system rules, the Holder(s) were then obliged to make payment of funds received to the Petitioner (the "Beneficial Holder");*

- (b) **Section 6.01:** the Events of Default include, *inter alia:*

"(a) default in the payment of principal of (or premium, if any, on) the Notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise"; and

"(b) default in the payment of interest on any Notes when the same becomes due and payable, and such default continues for a period of 30 consecutive days"; and

- (c) **Section 2.04(e)(iii):** *"If [...] any of the Notes has become immediately due and payable in accordance with Sections 6.01 and 6.02 and the Company has received a written request from a Holder, the Company will execute, and the Trustee, upon receipt of an Officers' Certificate of the Company directing the authentication and delivery thereof, will authenticate and deliver, Certificated Notes (which may bear a Note Legend) in any authorized denominations in an aggregate principal amount equal to the principal amount of such Global Notes in exchange for such Global Notes."*
- (d) **Section 6.02:** *"if an Event of Default (other than an Event of Default specified in clause (g) or (h) of Section 6.01) occurs and is continuing under this Indenture, the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may, and the Trustee at the written direction of such Holders (subject to being indemnified and/or secured to its satisfaction) shall, declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediately due and payable. Upon a declaration of acceleration, such principal of, premium, if any, and accrued and unpaid interest shall be immediately due and payable [...]"*
- (e) **Section 6.03:** *"if an Event of Default occurs and is continuing, the Trustee may, and shall, upon written request of Holders of at least 25% in aggregate principal amount of outstanding Notes (subject to receiving indemnity and/or security satisfactory to it), pursue, in its own name or as trustee of an express trust, any available remedy by proceeding at law or in equity to collect the payment of principal of, premium (if any) and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding."*
- (f) **Section 12.07:** The Indenture is governed by the laws of the State of New York.

The Notes

13. Pursuant to the terms of each of the Notes (including the Global Notes), the Company promised to:

- (a) pay the principal of the Notes on 18 August 2023 in accordance with **section 1** of the Notes (being the Final Maturity Date as defined);
- (b) pay interest on the outstanding principal amount of the Notes semi-annually on 18 February and 18 August (each an "**Interest Payment Date(s)**"), commencing 18 February 2022, to the Holders of record of the Notes as of 3 February and 3 August prior to each Interest Payment Date, at the rate of 12% per annum (see **section 1** of the Notes);
- (c) interest was to accrue on the basis of a 360 day year consisting of twelve 30-day months from the most recent date to which interest was paid under the Notes or from the Original Issue Date (as defined in the Indenture) (see **section 1** of the Notes);
- (d) if an Event of Default, as defined in the Indenture, occurs and is continuing under the Indenture, the Holder(s) of at least 25% in principal amount of the Notes then outstanding, by written notice to the Company and to the Trustee, may, and the Trustee at the written direction of such Holder(s) (subject to being indemnified and/or secured to its satisfaction) shall, declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediately due and payable (see **section 5** of the Notes); and
- (e) each of the Global Notes is governed by the laws of the State of New York (see **section 8** of the Notes).

Status of the Petitioner

14. In accordance with standard practice in connection with cleared bond structures:
- (a) the Global Notes were issued to, and are held by, the Holder(s) as nominee for the Common Depository;
 - (b) participants ("**Participants**") that hold accounts with Euroclear and/or Clearstream may buy and sell beneficial or economic interests in the Notes in dematerialised form through their Euroclear and/or Clearstream accounts; and

- (c) a third party investor who is not a Participant may buy and sell dematerialised interests in the Notes through a Participant who then holds the Notes on its behalf ("**Account Holder**"). The Petitioner is a Beneficial Holder and holds a beneficial interest of US\$50,000,000 in principal of the Notes, which is 25% of the outstanding principal of the Notes.

Default

15. Pursuant to the terms of the Notes as described in paragraph 13 above, interest was due to be paid to the Paying and Transfer Agent for payment to the Holder (for onward distribution to Beneficial Holder in proportion to their holdings in the Global Notes and via their Account Holder on 18 February and 18 August of each year, commencing 18 February 2022.
16. However, in breach of its obligations under the Notes, the Company failed to make the interest payment which became due and payable on 18 February 2022 (the "**Interest Payment**") and such default continued for a period of 30 consecutive days. The Company had a grace period of 30 days to make the Interest Payment, but did not make payment of the Interest Payment before the expiry of the grace period (or not at all).
17. The failure of the Company to make the Interest Payment, with such default continuing for 30 consecutive days, constituted an Event of Default (as defined in the Indenture) under section 6.01(b) of the Indenture and section 5 of the Notes (the "**Default**").

Notice of Default

18. On 21 March 2022, in accordance with section 6.02 of the Indenture, Shenwan (being the Beneficial Holder of at least 25% of the Global Notes) gave notice to the Trustee directing it to "*declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediate due and payable*" (the "**March Notice**").
19. On the same day, the Company published an announcement on the HKEx which stated that:
- "the interest payment in the amount of US\$12,000,000 under the Senior Notes [being the Notes] became due and payable on 18 February 2022. Under the terms of the Senior Notes, the Company has a grace period of 30 days to pay the interest. Affected*

by various unfavorable factors such as macro economy, real estate market environment and financial environment, and multiple rounds of epidemics, the Group's liquidity has experienced periodic problems. The grace period has expired and the Company did not make the interest payment before the expiry."

20. By email dated 1 April 2022, the Trustee informed Shenwan that "*we have received instructions from over 25% in aggregate principal of the notes to declare the principal + premium of the notes immediately due and payable. We will notify the issuer in writing.*"
21. On the same day, the Trustee issued a notice to the Holders (the "**April Notice**") referring to the March Notice and giving notice to the Beneficial Holders that:
 - (a) the Holders of at least 25% in aggregate principal of the Notes outstanding, by written request to the Trustee, instructed the Trustee to declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediately due and payable; and
 - (b) in accordance with such instructions, the Trustee delivered the Acceleration Notice (defined below) to the Company on 1 April 2021.
22. The April Notice attached an Acceleration Notice (the "**Acceleration Notice**") from the Trustee to the Company (pursuant to section 6.02 of the Indenture) which declared that the principal and the unpaid interest were immediately due and payable (the "**Debt**").
23. On 4 April 2022, the Company published an announcement on the HKEx ("**April Announcement**") in which, the Company acknowledged receipt of the Notice of Acceleration and confirmed that the Debt had become immediately due and payable.
24. To date, the Company has neglected to pay or satisfy the outstanding Debt owing under the Indenture and the Notes to the Paying and Transfer Agent, Holders, the Trustee, the Petitioner, or any other persons.

Amount Outstanding

25. As a result of the acceleration under section 6.02 of the Global Note, the outstanding principal amount of US\$50,000,000 plus interest on the outstanding principal amount at the rate of 12% p.a. (on the basis of a 360 day year) for the period 18 February 2022 to

the date of this Petition is due and owing by the Company in relation to the Notes beneficially held by the Petitioner.

Insolvency of the Company

26. In the Company's 2021 annual report filed with the HKEx on 23 May 2022 ("**2021 Annual Report**"), the Company stated that:

"the Group's total bank and other borrowings, senior notes and corporate bonds amounted to RMB34,386,436,000, out of which RMB17,247,884,000 will be due for repayment within the next twelve months, while its cash and cash equivalents amounted to RMB2,931,923,000. Subsequent to 31 December 2021, the Group did not repay a principal of US\$19,470,000 (equivalent to RMB123,461,000) and an interest of US\$12,000,000 (equivalent to RMB76,110,000) for certain senior notes due in January and March 2022 respectively. As a result, senior notes and interest bearing bank and other borrowings with an aggregate amount of RMB8,135,267,000 became default or cross-default and were payable on demand. These conditions, together with other matters disclosed in note 2.1 to the financial statements, indicate the existence of material uncertainties which may cast significant doubt on the Group's ability to continue as a going concern." (emphasis added) (page 69 of the 2021 Annual Report).

27. The 2021 Annual Report discloses that the Company was considering undertaking plans with respect to its financial position, and expressly referred to the result as being on a going concern basis for the year ended 31 December 2021 on the basis of certain anticipated "*plans and measures*" (page 153 of the 2021 Annual Report).
28. The Company further stated (at page 156 of the 2021 Annual Report) that "*[t]he directors of the Company are of the opinion that, taking into account the above plans and measures, the Group will have sufficient working capital to finance its operations and meet its financial obligations as and when they fall due within the next twelve months from 31 December 2021. Accordingly, the directors of the Company are satisfied that it is appropriate to prepare the consolidated financial statements of the Group for the year ended 31 December 2021 on a going concern basis.*"
29. In the April Announcement, the Company again referred to its financial position, stating that:

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Company be wound up in accordance with section 92(d) of the Companies Act.
- (2) Mr Lai Kar Yan (Derek) and Mr Chan Man Hoi (Ivan) all of Deloitte Touche Tohmatsu, 35/F, One Pacific Place, 88 Queensway, Hong Kong, and Timothy Robert Kent Derksen of Deloitte & Touche LLP of Citrus Grove, P.O. Box 1787, Grand Cayman KY1-1109, Cayman Islands, be appointed as JOLs of the Company.
- (3) The JOLs shall not be required to give security for their appointment.
- (4) The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
- (5) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- (6) The JOLs be authorised to exercise all of the powers set out in paragraphs 2, 4, 7, 10 and 11 of Part 1 of the Third Schedule to the Companies Act and section 110(2) thereof without further sanction or intervention of this Honourable Court.
- (7) The JOLs shall be authorised to do any acts or things considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs in the Cayman Islands and/or elsewhere.
- (8) Without prejudice to the generality of the foregoing, the JOLs be authorised and be granted leave to take all such actions as may be necessary to:
 - (a) bring or defend any action or other legal proceeding in the name and on behalf of the Company and to engage attorneys for such purposes in order to secure the assets of the Company including but not limited to winding up proceedings against the directors of the Company (if appropriate);
 - (b) take all action required consistent with applicable law to carry on the business of the Company so far as may be necessary for its beneficial winding up;

- (c) take all action on behalf of the Company in the name of and to the exclusion of the directors of the Company which shall forthwith have no authority or power to act in relation to the Company other than at the direction and with the consent of the JOLs;
- (d) investigate the affairs of the Company and its direct and indirect subsidiaries, including (without limitation) the Company's Wholly Foreign Owned Enterprises ("**WFOE**") located in in the PRC (together the "**Group**");
- (e) to exercise the rights to which a registered holder of any shares or other securities registered in the name of the Company, or to which an owner of any shares or securities held by or on behalf of the Company (whether as principal or as agent), is entitled including, but without prejudice to the generality of the foregoing power, the right to receive dividends and the benefits of other corporate actions in relation to such shares or other securities; the right to attend meetings and to exercise any voting power pertaining to such shares or other securities and to direct nominees of the Company in whose names shares or other securities beneficially owned by the Company are registered (including, without limitation, the directors of the Company) to exercise all or any such rights as the JOLs shall direct;
- (f) take steps to locate, demand and secure cash held by all Group companies in bank accounts in the Cayman Islands, Hong Kong, the PRC, or elsewhere;
- (g) pass resolutions appointing themselves or their nominees as directors and/or liquidators of its subsidiaries in accordance with the terms of their constitutional documents and the laws of the place of incorporation;
- (h) communicate on the Company's behalf with the HKEx as appropriate;
- (i) take steps to replace the directors, legal representatives, and any officers including the general manager of each of the WFOEs in the Group in accordance with the laws of the PRC including, without limitation, the making of an application to the relevant authorities in the PRC for the amendment to the WFOEs articles of association in order to reflect a change in legal representative,

- registering the change in legal representative with the relevant PRC authorities, and making post-registration amendments to ancillary administrative documents;
- (j) liaise with management of the Group to stabilise and preserve value in the onshore business of the Company and the Group,
 - (k) negotiate with key non-PRC based and PRC based creditors; and
 - (l) make applications to, and seek the assistance and recognition from, the courts of any foreign jurisdictions as may be necessary in the course of their conduct as JOLs of the Company or for the purposes of carrying out any of the functions provided for herein;
 - (m) raise or borrow money and grant securities therefor over the property of the Company for the purpose of funding the costs and expenses of the liquidation (including as to the JOLs' remuneration).
- (9) The JOLs be at liberty to appoint such counsel, attorneys, professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with Order 25 of the Companies Winding Up Rules, 2018 (as amended).
- (10) No disposition of the property of the Company by or with the authority of the JOLs in carrying out their duties and functions and the exercise of their duties and functions and the exercise of their powers under any Order granted pursuant to this Petition shall be voided by virtue of section 99 of the Companies Act.
- (11) Subject to section 109(2) of the Companies Act and the Insolvency Practitioner's Regulations 2008 (as amended), the JOLs be authorised to render and pay invoices out of the assets of the Company for their own remuneration.
- (12) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
- (13) The JOLs be at liberty to apply generally.

The Petitioner's costs of and incidental to the Petition shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the JOLs.

(14) Such further or other relief be granted as the Court deems fit.

AND your Petitioner will ever pray etc.

DATED this day of September 2022

FILED this day of September 2022



WALKERS

Attorneys at Law for the Petitioner

NOTE: This petition is intended to be served on the Company by way of service upon its registered office, or otherwise in accordance with any directions of the Honourable Court.

THIS PETITION was presented by WALKERS of 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, Cayman Islands, Attorneys at Law for and on behalf of the Petitioner whose address for service is that of its said Attorneys.

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on 19 October at 10 am/pm.

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone no. 349 949 4296.