

**THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION.**

**If you are in any doubt as to the course of action you should take, you should consult your stockbroker, bank manager, solicitor, accountant or other professional adviser immediately.**

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**AXIATA GROUP BERHAD**

Company No. 199201010685 (242188-H)  
(Incorporated in Malaysia)

**CIRCULAR TO SHAREHOLDERS IN RELATION TO THE PROPOSED  
SHAREHOLDERS' MANDATE FOR RECURRENT RELATED PARTY  
TRANSACTIONS OF A REVENUE OR TRADING NATURE**

The ordinary resolution for the Proposed Shareholders' Mandate (as defined herein) will be tabled at the Thirtieth Annual General Meeting ("**30th AGM**") of Axiata Group Berhad ("**Axiata**"), which will be held on a virtual basis. This Circular is available at <https://www.axiata.com/investors/agm/> together with, amongst others, the Notice of the 30th AGM, Proxy Form and the Administrative Notes of Axiata. The date, time and broadcast venue of the AGM are as follows:

Date and time of the 30th AGM : Thursday, 26 May 2022 at 9.30 a.m. or at any adjournment thereof.

Broadcast Venue of the 30th AGM : Auditorium, Level 32, Axiata Tower, 9 Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur, Malaysia.

The Proxy Form for the 30th AGM should be completed and deposited at the office of Axiata's share registrar, Tricor Investor & Issuing House Services Sdn Bhd (11324-H) ("**Tricor**") at Unit 32-01, Level 32, Tower A, Vertical Business Suite, Avenue 3, Bangsar South, No. 8, Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia or at its Customer Service Centre at Unit G-3, Ground Floor, Vertical Podium, Avenue 3, Bangsar South, No. 8, Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia. As the voting at the 30th AGM will be conducted on a poll, the Proxy Form must be lodged on or before the following time and date:

Last day and time for deposit of Proxy Form : Wednesday, 25 May 2022 at 9.30 a.m.

The proxy appointment may also be lodged electronically via Tricor's TIH Online website at <https://tiah.online> no later than Wednesday, 25 May 2022 at 9.30 a.m. For further information on the electronic lodgment of the Proxy Form, kindly refer to the Administrative Notes for the 30th AGM.

This Circular is dated 27 April 2022

## DEFINITIONS

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In this Circular, the following words and expressions shall bear the following meanings respectively, unless the context otherwise requires:

- “Act” : Companies Act 2016, as amended from time to time and includes any re-enactment thereof
- “AGM” : Annual general meeting of our Company
- “Axiata” or “Company” : Axiata Group Berhad
- “Axiata Group” or “Group” : Axiata and its subsidiaries, collectively
- “BDT” : Bangladeshi Taka
- “Board” : The board of directors of Axiata for the time being
- “Board Audit Committee” : The audit committee of the Board, as detailed in section 2.6 of this Circular
- “Bursa Securities” : Bursa Malaysia Securities Berhad
- “Connected Person” or “Person Connected” : In relation to any person (referred to as “said Person”) means such person who falls under any one of the following categories:
- (a) a family member of the said Person;
  - (b) a trustee of a trust (other than a trustee for a share scheme for employees or pension scheme) under which the said Person, or a family member of the said Person, is the sole beneficiary;
  - (c) a partner of the said Person;
  - (d) a person, or where the person is a body corporate, the body corporate or its directors, who is/are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the said Person;
  - (e) a person, or where the person is a body corporate, the body corporate or its directors, in accordance with whose directions, instructions or wishes the said Person is accustomed or is under an obligation, whether formal or informal, to act;
  - (f) a body corporate in which the said Person, or Persons Connected with the said Person are entitled to exercise, or control the exercise of, not less than twenty percent (20.0%) of the votes attached to voting shares in the body corporate; or
  - (g) a body corporate which is a related corporation of the said Person
- “Director” : A director within the meaning given in section 2(1) of the Capital Markets and Services Act, 2007 (as amended)

from time to time and includes any re-enactment thereof), and for the purposes of the Proposed Shareholders' Mandate, Proposed Award, and in respect of any particular transaction, includes any person who is or was, within the six-month period preceding the date on which the terms of the transactions were agreed upon:

- (a) a director of our Company or our subsidiary or holding company; or
- (b) a chief executive officer of our Company or our subsidiary or holding company,

and "Directors" shall be construed accordingly

"FYE"	:	Financial year ended or where the context requires, financial year ending
"Integrated Annual Report"	:	The integrated annual report of our Company
"Khazanah"	:	Khazanah Nasional Berhad, a Major Shareholder of Axiata
"EPF"	:	Employees Provident Fund, a Major Shareholder of Axiata
"IDR"	:	Indonesian Rupiah
"Listing Requirements"	:	Main Market Listing Requirements of Bursa Securities, as amended from time to time and shall include any Practice Notes issued in relation thereto
"SLR"	:	Sri Lankan Rupee
"LOA"	:	Limits of authority, as described in section 2.6 of this Circular
"LPD"	:	31 March 2022, being the latest practicable date prior to the printing of this Circular
"Major Shareholder"	:	A person who has an interest or interests in one or more voting shares in a corporation and the number or the aggregate number of those shares, is: <ul style="list-style-type: none"><li>(i) ten percent (10.0%) or more of the total number of voting shares in the corporation; or</li><li>(ii) five percent (5.0%) or more of the total number of voting shares in the corporation where such person is the largest shareholder of the corporation,</li></ul>

and for the purposes of the Proposed Shareholders' Mandate, Proposed Award, and in respect of any particular transaction, includes any person who is or was, within the six-month period preceding the date on which the terms of that transaction were agreed upon, a Major Shareholder of Axiata or its subsidiary or holding company. For the purposes hereof, an interest in a share

shall be determined by reference to section 8 of the Act.  
“Major Shareholders” shall be construed accordingly

“NPR”	:	Nepalese Rupee
“PN 12”	:	Practice Note 12 of the Listing Requirements
“Proposed Shareholders’ Mandate”	:	Proposed shareholders’ mandate for RRPTs to be entered into by the Axiata Group as described in Section 1 of Appendix 1 of this Circular
“Related Party”	:	A Director, Major Shareholder, or Person Connected with such Director or Major Shareholder, and “Related Parties” shall be construed accordingly
“Related Party Transaction”	:	A transaction entered into by Axiata or a subsidiary of Axiata which involves the interest, direct or indirect, of a Related Party
“RM” and “sen”	:	Ringgit Malaysia and sen, respectively
“RRPT”	:	A Related Party Transaction which is recurrent, of a revenue or trading nature, and which is necessary for the day-to-day operations of the Axiata Group, and “RRPTs” shall be construed accordingly
“USD”	:	United States Dollar
“VAT”	:	Value added tax

All references in this Circular to “we”, “us”, “our” and “ourselves” are to Axiata and, where the context requires, to Axiata and its subsidiaries collectively. All references to “you” in this Circular are to the shareholders of Axiata.

In this Circular, words importing the singular shall, where applicable, include the plural and vice versa and words importing any gender shall, where applicable, include all genders.

In this Circular, all references to a person shall include a reference to corporations.

All references to time in this Circular are references to Malaysian time, unless otherwise stated. Unless otherwise expressly provided herein, references in this Circular to Sections and Appendices are to the relevant sections and appendices of and to this Circular.

Any discrepancy in the tables between the amounts listed and the totals in this Circular are due to rounding.

Certain statements in this Circular may be forward-looking in nature, which are subject to uncertainties and contingencies. Forward-looking statements may contain estimates and assumptions made by the Board after due inquiry, which are nevertheless subject to known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements to differ materially from the anticipated results, performance or achievements expressed or implied in such forward-looking statements. In light of these and other uncertainties, the inclusion of a forward-looking statement in this Circular should not be regarded as a representation or warranty that our Group’s plans and objectives will be achieved.

Any exchange rate translations in this Circular are provided solely for convenience of readers and should not be constituted as representative that the translated amounts stated in this Circular could have been or would have been converted into such other amounts or vice versa.

## TABLE OF CONTENTS

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### **PROPOSED SHAREHOLDERS' MANDATE FOR RECURRENT RELATED PARTY TRANSACTIONS OF A REVENUE OR TRADING NATURE**

1.	INTRODUCTION .....	1
2.	DETAILS OF THE PROPOSED SHAREHOLDERS' MANDATE.....	2
3.	EFFECTS OF THE PROPOSED SHAREHOLDERS' MANDATE .....	7
4.	APPROVALS REQUIRED .....	7
5.	DIRECTORS' STATEMENT... ..	7
6.	CORPORATE PROPOSALS ANNOUNCED BUT PENDING COMPLETION .....	7
7.	AGM.....	8
8.	FURTHER INFORMATION.....	9
<b>APPENDICES</b>		
APPENDIX I	DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES .....	10
APPENDIX II	FURTHER INFORMATION .....	16



**AXIATA GROUP BERHAD**  
Company No. 199201010685 (242188-H)  
(Incorporated in Malaysia)

**Registered office:**

Level 5, Corporate Headquarters,  
Axiata Tower,  
9, Jalan Stesen Sentral 5,  
Kuala Lumpur Sentral,  
50470 Kuala Lumpur,  
Malaysia.

27 April 2022

**Board of Directors**

Tan Sri Shahril Ridza Ridzuan (*Chairman, Independent Non-Executive Director*)  
Dato' Mohd Izzaddin Idris (*Managing Director/President & Group Chief Executive Officer*)  
Dato Dr Nik Ramlah Nik Mahmood (*Senior Independent Non-Executive Director*)  
Dr David Robert Dean (*Independent Non-Executive Director*)  
Khoo Gaik Bee (*Independent Non-Executive Director*)  
Thayaparan S Sangarapillai (*Independent Non-Executive Director*)  
Tan Sri Dr Halim Shafie (*Independent Non-Executive Director*)  
Ong King How (*Non-Independent Non-Executive Director*)  
Syed Ali Syed Salem Alsagoff (*Non-Independent Non-Executive Director*)  
Nurhisham Hussein (*Non-Independent Non-Executive Director*)

**To: Our Shareholders**

Dear Sir/Madam,

**Proposed Shareholders' Mandate For Recurrent Related Party Transactions Of A Revenue Or Trading Nature**

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**1. INTRODUCTION**

At the last AGM held on 15 June 2021, we had obtained a mandate from our shareholders for us to renew the RRPTs with our Related Parties as set out in the circular to shareholders dated 17 May 2021. This shareholders' mandate shall, in accordance with the provisions of the Listing Requirements, lapse at the conclusion of the forthcoming 30th AGM unless we, at that same AGM, again procure a mandate from you for us to enter into RRPTs with our Related Parties. Our Board had, on 22 February 2022, announced that we will be seeking your approval for the Proposed Shareholders' Mandate, at the forthcoming 30th AGM.

The purpose of this Circular is to provide you with the relevant information on the Proposed Shareholders' Mandate and in relation thereto, to seek your approval for ordinary resolution 9 which is to be tabled as special business at the forthcoming 30th AGM. This Circular is available at <https://www.axiata.com/investors/agm/> together with, amongst others, the Notice of the 30th AGM, Proxy Form and the Administrative Notes of Axiata.

**Please read and consider carefully the contents of this Circular before voting on the resolution pertaining to the Proposed Shareholders' Mandate at our forthcoming AGM.**

## 2. DETAILS OF THE PROPOSED SHAREHOLDERS' MANDATE

### 2.1 Provisions Of The Listing Requirements

- (a) Paragraph 10.09(1), Part E, Chapter 10 of the Listing Requirements provides, among others, that a listed issuer must immediately announce an RRPT in relation to a listed issuer with an issued and paid-up capital of RM60.0 million and above:
- (i) the consideration, value of the assets, capital outlay or cost of the RRPT is RM1.0 million or more; or
  - (ii) the percentage ratio of such RRPT is one percent or more,
- whichever is the higher.
- (b) Under paragraph 10.09(2) of the Listing Requirements, a listed issuer may seek a mandate from its shareholders for RRPTs subject to the following:
- (i) the transactions are in the ordinary course of business and are on terms not more favourable to the Related Party than those generally available to the public;
  - (ii) the shareholders' mandate is subject to annual renewal and disclosure is made in the annual report of the aggregate value of transactions conducted pursuant to the shareholders' mandate during the financial year where the aggregate value is equal to or more than the threshold prescribed under paragraph 10.09(1) of the Listing Requirements;
  - (iii) the listed issuer's circular to shareholders for the shareholders' mandate includes such information as may be prescribed by the Bursa Securities;
  - (iv) in a meeting to obtain the shareholders' mandate:
    - (I) a Related Party with any interest, direct or indirect, in an RRPT that is subject to such mandate ("**Interested Related Party**") must not vote on the resolution to approve the shareholders' mandate and the RRPT;
    - (II) an Interested Related Party who is a Director or Major Shareholder must ensure that Persons Connected with it abstain from voting on the resolution to approve the shareholders' mandate and the RRPT; and
    - (III) where the Interested Related Party is a Person Connected with a Director or Major Shareholder, such person must not vote on the resolution to approve the shareholders' mandate and the RRPT; and
  - (v) the listed issuer must immediately announce to Bursa Securities when the actual value of an RRPT entered into by the listed issuer exceeds the estimated value of the RRPT as disclosed in this Circular by ten percent (10.0%) or more and must include such information as may be prescribed by the Bursa Securities in its announcement.
- (c) In accordance with paragraph 3.1.4 of PN 12, any authority conferred by the Proposed Shareholders' Mandate, if approved by you at the 30th AGM, is subject to annual renewal and shall only continue to be in force until:
- (i) the conclusion of our next AGM following the 30th AGM at which the Proposed Shareholders' Mandate is passed, at which time the authority will lapse, unless the authority is renewed by a resolution passed at the next AGM;

- (ii) the expiration of the period within which our next AGM is required to be held under section 340(2) of the Act (but must not extend to such extension as may be allowed under section 340(4) of the Act); or
  - (iii) revoked or varied by resolution passed by you at a general meeting,
- whichever is the earlier.
- (d) Pursuant to paragraph 3.1.5 of PN 12, disclosure of the aggregate value of RRPTs conducted pursuant to the Proposed Shareholders' Mandate will be made in our next Integrated Annual Report, together with the breakdown of the aggregate value of the RRPTs made during the financial year, based on (among other things) the following information:
- (i) the type of RRPTs made; and
  - (ii) the names of the Related Parties involved in each type of RRPTs made and their relationship with us.

## 2.2 Our Principal Activities

The principal activities of our Group are the provision of mobile communication services, telecommunication infrastructure and related services as well as digital services.

The principal activities of our Company are investment holding and provision of technical and management services on an international scale.

## 2.3 Related Parties

The Proposed Shareholders' Mandate will apply to the following classes of Related Parties:

- (a) our Major Shareholders and Connected Persons of our Major Shareholders; and
- (b) our Directors and Connected Persons of our Directors.

## 2.4 RRPT

The details of the RRPTs under the Proposed Shareholders' Mandate are described in Appendix I of this Circular.

## 2.5 Details Of Overdue Trade Receivables

The details of our Group's trade receivables pursuant to RRPTs which exceeded the credit term for the following periods as at the LPD are as follows:

Amount in RM('000)	Aging of the Outstanding Amount			
	< 1 year	1 < 3 years	3 < 5 years	> 5 years
<b>Revenue to Axiata Group</b>				
Interconnect payment from TM Group	921	248	0	0
Transmission revenue on the services by Axiata Group to TM Group	801	0	0	0
Domestic roaming revenue from TM Group	10,682	28,478	0	0



Field Line Maintenance (“FLM”) services by Axiata Group to edotco Group	0	12,285	0	0
Technical and management services fees and other services charges by Axiata Group to edotco Group	4,889	0	0	0
Infrastructure leasing and related services including managed services by edotco Group to Axiata Group	49,195	14,238	0	0
<b>GRAND TOTAL</b>	<b>66,488</b>	<b>55,249</b>	0	0

There are no late payment charges on the overdue trade receivables as our Group does not impose late payment charges. The management of our Company has and will continue to meet and discuss with the relevant Related Parties to pursue for early settlement of the outstanding amounts due. Our Board Audit Committee and our Board have reviewed the outstanding amounts and are of the opinion that the outstanding amounts were part of normal business operations of our Group and are recoverable. In addition, our management is of the view that the Related Parties are long term business counterparties and have sound credit standing.

## 2.6 Review Procedures For The RRPTs

To ensure that the RRPTs are undertaken on an arm’s length basis, are on terms not more favourable to the Related Parties than those generally available to the public and are not to the detriment of our minority shareholders, our Board Audit Committee has been tasked with the review and approval of such transactions.

The current members of our Board Audit Committee are Thayaparan S Sangarapillai, Dr. David Robert Dean and Syed Ali Syed Salem Alsagoff.

We have established the following procedures and guidelines for the review and approval of RRPTs:

- (a) A list of Related Parties is established and made available to the chief financial officers or heads of the financial divisions (as the case may be) of each operating unit and subsidiary in our Group, who shall monitor and ensure that all RRPTs to be entered into by us or our subsidiaries are required to be undertaken on an arm’s length basis, on terms which are not more favourable to the Related Parties than those generally available to the public, and which are not to the detriment of our minority shareholders;
- (b) Our operating units and our subsidiaries are made aware of the requirement to monitor, and shall put in place processes or systems to record and report on all RRPTs for compilation and reporting to our Group’s finance division;
- (c) Our operating units and subsidiaries must ensure that proper records and supporting documents of the RRPTs are maintained so that all RRPTs entered into pursuant to the Proposed Shareholders’ Mandate will be adequately disclosed;
- (d) The processes and procedures are in place to ensure RRPTs are entered into after taking into account the pricing and contract rates, terms and conditions, level of service and expertise required, and the quality of products and services provided, as compared to the prevailing market prices and rates, industry norms and standards, as well as the general practices, adopted by the service providers of similar capacities and capabilities generally available in the open market;
- (e) All RRPTs are presented at our Board Audit Committee meetings. Our Board Audit Committee has the right to access information concerning our Related Parties, and is

entitled to the services of any independent adviser, if required, for the discharge of its duties;

- (f) Our Board and our Board Audit Committee have overall responsibility for determining whether the guidelines and procedures on the RRPTs are appropriate and sufficient. Arising from business needs, a review of the RRPT processes and procedures will be carried out by our Board through the Board Audit Committee. If, during the review, the Board and the Board Audit Committee are of the view that the RRPT processes and procedures are:
  - (i) no longer valid; or
  - (ii) insufficient to ensure that the RRPTs are made on an arm's length basis or on terms not more favourable to the Related Parties than those generally available to the public and not to the detriment of our minority shareholders;

then, they shall have the discretion to change, vary, modify existing guidelines and procedures, or implement new or additional guidelines and procedures, provided that such amended, varied, modified, new or additional guidelines and procedures are no less stringent than the existing guidelines and procedures; and

- (g) Where any of our Board or our Board Audit Committee members has an interest (direct or indirect) in an RRPT, he must declare his interest in the RRPT and abstain from participating in the decision of the Board or the Board Audit Committee on the said RRPT.

All transactions (including RRPTs) are subject to approvals based on our Group's LOA. Our LOA, which have been duly approved by the respective boards of directors of our Group, contain the prescribed approval limits (including thresholds for board of directors' approvals) determined based on grounds of practicality from the business and operational viewpoint unique to our Group. The threshold for the utilisation of the approved mandate is also subject to our LOA prior to the award of contracts in relation to the transactions contemplated under the Proposed Shareholders' Mandate.

Under normal circumstances, procurement is conducted in line with guidelines set by our Group's procurement division, which would require comparisons of at least three quotations for the same, or substantially similar types of, products, services, and the same (or substantially similar) quantity of products or services, from unrelated third parties. However, given the nature and type of transactions that we enter into, in a number of occasions, it is not possible to find at least two other contemporaneous transactions with unrelated third parties for similar products, services or quantities thereof which can be used as comparison to determine whether the prices and terms offered to or by our Company by or to our Related Parties, as the case may be, are fair and reasonable and comparable to those offered to or by other unrelated third parties.

In these instances, prices are determined based on market knowledge and on normal commercial terms in accordance with our Group's policies, which require (among others) that transactions with Related Parties are undertaken on an arm's length basis, are carried out on normal commercial terms and are not detrimental to our minority shareholders, Company or Group.

Besides pricing, we also have a procurement policy that selects vendors and suppliers not based on pricing alone but also on other intrinsic factors, such as quality and nature of goods or services, reliability, lead time and all other relevant business circumstances and considerations.

## **2.7 Statement By Our Board Audit Committee**

Our Board Audit Committee has seen and reviewed the procedures described in Section 2.6 of this Circular and is of the opinion that these procedures are adequate and sufficient to monitor,

track and identify RRPTs in a timely and orderly manner, and to ensure that RRPTs are on an arm's length basis, are on terms that are not more favourable to the Related Parties than those generally available to the public, and are not to the detriment of our minority shareholders.

## 2.8 Rationale For And Benefits Of The Proposed Shareholders' Mandate

The RRPTs that have been entered into and that will be entered into by our Group are necessary for our business and are intended to meet our business needs on the best possible terms.

We should be able to have access to all available markets, products and services provided by all vendors including Related Parties, and to provide products and services to all persons, including our Related Parties. This will enhance our ability to explore beneficial opportunities as well as to promote cross-selling which is beneficial to our Group.

The RRPTs are likely to continue in the future on a frequent and recurrent basis from time to time. In addition, these transactions may be constrained by the time-sensitive nature and confidentiality of such transactions, and it may be impractical to seek your prior approval on a case-by-case basis before entering into such transactions. The Proposed Shareholders' Mandate will, therefore, substantially reduce the expenses relating to the convening of general meetings on an ad hoc basis and improve administrative efficiency.

The RRPTs are transactions in the ordinary course of our business, are made on an arm's length basis, are on terms not more favourable to the Related Parties than those generally available to the public and are not to the detriment of our minority shareholders.

## 2.9 Interests Of Directors, Major Shareholders And Their Connected Persons

Save for those disclosed herein, none of our Major Shareholders and their Connected Persons, and our Directors and their Connected Persons, have any interest, direct or indirect, in the Proposed Shareholders' Mandate. Their direct and indirect shareholdings in our Company, based on the Register of Substantial Shareholders as of the LPD are as set forth:

Interested parties	Direct		Indirect	
	Number of Axiata Shares	%	Number of Axiata Shares	%
<b><u>Major Shareholder</u></b>				
Khazanah	3,343,841,357	36.44	27,271,260*	0.30
EPF	1,562,369,628	17.03	0	0

Note:

\* Includes 13,572,630 Axiata Shares held via Citigroup Nomines (Tempatan) Sdn. Bhd. and 13,698,630 Axiata Shares held via CGS-CIMB Nominees (Tempatan) Sdn. Bhd., the Exempt Authorised Nominee for CGS-CIMB Securities Sdn. Bhd. (SBL-KNB)

Khazanah and EPF, being the Major Shareholders of our Company, are deemed interested in the Proposed Shareholders' Mandate.

Our Directors, Ong King How (Director of Investments of Khazanah) and Nurhisham Hussein (Chief Strategy Officer of EPF), together "**Representative Directors**", who are full-time executives of Khazanah and EPF, are Khazanah and EPF's representatives on our Board and accordingly, have abstained and will continue to abstain from deliberating and voting on the Proposed Shareholders' Mandate at our Company's relevant Board meetings. The Representative Directors do not have any direct or indirect interest in our Company.

Khazanah, EPF and the Representative Directors will abstain from voting in respect of their direct or indirect shareholdings in our Company (if any) on the resolution pertaining to the Proposed Shareholders' Mandate to be tabled at our forthcoming AGM and have also undertaken to ensure that Persons Connected to them will abstain from voting in respect of their direct or indirect shareholdings in our Company (if any), deliberating or approving the resolution pertaining to the Proposed Shareholders' Mandate to be tabled at our forthcoming AGM.

### 3. EFFECTS OF THE PROPOSED SHAREHOLDERS' MANDATE

The Proposed Shareholders' Mandate is not expected to have any effect on our issued shares or the shareholdings of our substantial shareholders. However, the Proposed Shareholders' Mandate may have a material effect on our consolidated net assets and consolidated earnings for the financial year ending 31 December 2022.

### 4. APPROVALS REQUIRED

The Proposed Shareholders' Mandate is subject to your approval at our forthcoming 30th AGM.

### 5. DIRECTORS' STATEMENT

Our Board (save for Ong King How and Nurhisham Hussein, who have abstained from deliberation and voting in respect of the Proposed Shareholders' Mandate), having considered all aspects of the Proposed Shareholders' Mandate, is of the opinion that the Proposed Shareholders' Mandate is in the best interest of our Company and recommends that you vote in favour of the ordinary resolution pertaining to the Proposed Shareholders' Mandate at our forthcoming AGM.

### 6. CORPORATE PROPOSALS ANNOUNCED BUT PENDING COMPLETION

As at the LPD, the corporate proposals announced but pending completion of our Group are as follows:

#### (a) **Proposed Merger of Celcom Axiata Berhad ("Celcom") and Digi.Com Berhad ("Digi")**

On 8 April 2021, our Board had announced that Axiata and Telenor Asia Pte Ltd ("**Telenor Asia**") (collectively, the "**Parties**") are in advanced discussions to undertake a merger of the telco operations of Celcom and Digi ("**MergeCo**").

Our Board had, on 21 June 2021, announced that the Parties have successfully concluded the due diligence exercise and entered into the following agreements for the proposed merger ("**Proposed Merger**"):

- (i) a master transaction agreement with Telenor Asia and Telenor ASA ("**Telenor**"); and
- (ii) a conditional share purchase agreement with Digi.

On the closing of the share purchase agreement, Axiata intends to enter into a shareholders' agreement with Telenor Asia and Telenor to establish the respective rights and obligations of the parties with respect to the activities and governance of MergeCo as well as ownership and disposition of the securities in MergeCo.

(The share purchase agreement, master transaction agreement and the agreed form of the shareholders' agreement are collectively referred to as the "**Transaction Agreements**").

At completion, the merger of Celcom and Digi will result in Axiata receiving newly issued ordinary shares in Digi, representing 33.10% of the enlarged issued share capital of

Digi, cash consideration of RM2.0 billion adjusted with movement in net debt and working capital of which RM1.7 billion from Digi as new debt and RM297.9 million from Telenor Asia for the purpose of ownership equalisation under the terms of the Transaction Agreements.

Our Board had, on 24 November 2021, also announced that the MergeCo has initiated engagement with the Malaysian Communications and Multimedia Commission for the merger assessment process in relation to the Proposed Merger. On 28 January 2022, our Board also announced that Axiata has been informed by Digi that an application to the Securities Commission of Malaysia to seek its approval for the Proposed Merger has been submitted by Digi on 28 January 2022.

Completion of the transaction will be subject to the approval of both the Company and Digi shareholders, regulatory approvals and other customary terms and conditions. Barring any unforeseen circumstances, the Proposed Merger is expected to be completed within the second half of 2022.

(b) **Proposed Joint Submission for a Digital Banking Licence to Bank Negara Malaysia (“BNM”)**

Our Board had, on 2 June 2021, announced that our Group and RHB Bank Berhad (“**RHB Bank**”) have agreed to collaborate and to jointly apply to BNM for a digital bank licence, and the proposed Group entity selected to collaborate with RHB Bank for the joint application for the digital bank licence is Boost Holdings Sdn. Bhd. (“**Boost Holdings**”), a subsidiary of Axiata Digital Services Sdn Bhd. In relation to the foregoing, Boost Holdings and RHB Bank had, on 2 June 2021, entered into a heads of agreement setting out the terms of the proposed application to BNM for a digital banking licence. The joint application for the digital bank licence by the parties was submitted to BNM on 30 June 2021.

(c) **Proposed Acquisition of 66.03% Equity Interest in PT Link Net TBK (“Link Net”)**

Our Board had, on 30 July 2021, announced that Axiata and its indirect 61.48% owned subsidiary, PT XL Axiata Tbk (“**XL**”) had entered into a non-binding term sheet with Asia Link Dewa Pte. Ltd. and PT First Media Tbk (collectively, referred to as the “**Sellers**”) to facilitate discussions and negotiations for a potential acquisition of 1,816,735,484 ordinary shares representing approximately 66.03% equity interest in Link Net owned by the Sellers.

Axiata Investments (Indonesia) Sdn Bhd (“**All**”), an indirect wholly owned subsidiary of Axiata, and XL (“collectively referred to as the “**Purchasers**”) had on 27 January 2022 entered into a conditional share purchase agreement (“**SPA**”) with the Sellers for the proposed of an aggregate 66.03% equity interest in Link Net. The purchase consideration has been agreed at IDR4,800 per ordinary share (equivalent to approximately RM1.40 per ordinary share) in Link Net (“**Link Net Share**”) or approximately IDR8.7 trillion (equivalent to approximately RM2.5 billion) (the “**Proposed Acquisition**”).

Under the terms of the SPA, All and XL shall acquire 46.03% and 20.00% respectively from the combined equity interest of 66.03% in Link Net held by the Sellers. All will be obligated to undertake a mandatory tender offer to acquire the remaining 33.97% Link Net Shares pursuant to regulatory requirements in Indonesia (“**Proposed MTO**”).

The Proposed Acquisition and Proposed MTO are expected to be completed in the third quarter of 2022 and will be subjected to customary completion conditions, including regulatory and shareholder approvals. The Proposed Acquisition and Proposed MTO will be funded via a combination of internally generated funds and/or bank borrowings, the proportion of which will be determined at a later date.

## **7. AGM**

The resolution in respect of the Proposed Shareholders' Mandate will be tabled at the forthcoming AGM. This Circular is available at <https://www.axiata.com/investors/agm/> together with, amongst others, the Notice of the 30th AGM, Proxy Form and the Administrative Notes of Axiata.

The 30th AGM will be held on Thursday, 26 May 2022 at 9.30 a.m. or at any adjournment thereof. The broadcast venue for the AGM is at Auditorium, Level 32, Corporate Headquarters, Axiata Tower, 9 Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur, Malaysia.

The voting of the 30th AGM will be conducted on a poll. If you are unable to attend and vote by yourself at the 30th AGM, please complete, execute and deposit the Proxy Form, in accordance with the instructions therein, to our share registrar, Tricor at Unit 32-01, Level 32, Tower A, Vertical Business Suite, Avenue 3, Bangsar South, No. 8, Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia or at its Customer Service Centre at Unit G-3, Ground Floor, Vertical Podium, Avenue 3, Bangsar South, No. 8, Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia no later than Wednesday, 25 May 2022 at 9.30 a.m. The proxy appointment may also be lodged electronically via Tricor's TIIH Online website at <https://tiih.online> no later than Wednesday, 25 May 2022 at 9.30 a.m. For further information on the electronic lodgement of Proxy Form, kindly refer to the Administrative Notes.

You may attend and vote by yourself at our forthcoming AGM if you wish to do so even after you have completed and returned the Proxy Form so long as you revoke the appointment of your proxy prior to the 30th AGM.

## **8. Further Information**

Please refer to the attached Appendix II of this Circular for further information.

Yours faithfully,  
For and on behalf of the Board of  
**AXIATA GROUP BERHAD**

**Tan Sri Shahril Ridza Ridzuan**  
Chairman, Independent Non-Executive Director

## DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES

## Proposed Shareholders' Mandate

Transacting Companies in Axiata Group	Transacting Related Parties	Interested Major Shareholder / Director	Nature of Relationship	Nature of RRPT	2021 Shareholders' Mandate		Estimated value of the Proposed Shareholders' Mandate (RM'000) <sup>(2)</sup>
					Estimated Value (RM'000)	Actual Value (RM'000) <sup>(1)</sup>	
Axiata Group	TM Group	Khazanah and Ong King How	In addition to Khazanah's shareholdings in Axiata Group, Khazanah is also the Major Shareholder of TM Group.  Ong King How is Khazanah's representative on Axiata's Board.	<b>Revenue</b>			
				<b>Telecommunication and related services</b>			
				Interconnect payment from TM Group	17,000	14,559	17,000
		Dark fibre and leased-line from Celcom Group to Fibrecomm Network (M) Sdn. Bhd.	4,000	3,109	4,000		
		Leased-line from Celcom Group to Fiberail Sdn. Bhd.	1,000	284	1,000		
		Transmission revenue on the services by Axiata Group to TM	3,000	2,344	6,000		
EPF and Nurhisham Hussein	In addition to EPF's shareholdings in Axiata Group, EPF is also the Major Shareholder of TM Group.  Nurhisham Hussein is EPF's representative on Axiata's Board	Infrastructure leasing and related services including managed services receivable from TM Group to Axiata Group	80,000	75,925	82,000		
		Domestic roaming revenue and Provision of 4G Multi-Operator Core Network ("MOCN") by Celcom Group to TM Group	100,000	62,727	110,000		

## DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES (cont'd)

Transacting Companies in Axiata Group	Transacting Related Parties	Interested Major Shareholder / Director	Nature of Relationship	Nature of RRPT	2021 Shareholders' Mandate		Estimated value of the Proposed Shareholders' Mandate (RM'000) <sup>(2)</sup>
					Estimated Value (RM'000)	Actual Value (RM'000) <sup>(1)</sup>	
Axiata Group	TM Group	Khazanah and Ong King How	In addition to Khazanah's shareholdings in Axiata Group, Khazanah is also the Major Shareholder of TM Group.  Ong King How is Khazanah's representative on Axiata's Board.	<b>Costs</b>  <b>Telecommunication and related services</b>  Interconnect cost to TM Group  Voice Over Internet Protocol related services by TM Group to Axiata Group  Leased-line related costs to TM Group  Provision of data and bandwidth related services by TM Group to Axiata Group  Provision of contact centre and business process outsourcing services by VADS Berhad to Axiata Group  Leasing of fibre optic core and provision of bandwidth services from Fiberail Sdn. Bhd. to Celcom Group	12,500  1,000  13,000  111,000  35,000  500	11,725  0  12,510  88,950  14,798  212	22,000  1,000  28,000  130,000  35,000  500
		EPF and Nurhisham Hussein	In addition to EPF's shareholdings in Axiata Group, EPF is also the Major Shareholder of TM Group.  Nurhisham Hussein is EPF's representative on Axiata's Board				



## DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES (cont'd)

Transacting Companies in Axiata Group	Transacting Related Parties	Interested Major Shareholder / Director	Nature of Relationship	Nature of RRPT	2021 Shareholders' Mandate		Estimated value of the Proposed Shareholders' Mandate (RM'000) <sup>(2)</sup>
					Estimated Value (RM'000)	Actual Value (RM'000) <sup>(1)</sup>	
Axiata Group	TM Group	Khazanah and Ong King How	<p>In addition to Khazanah's shareholdings in Axiata Group, Khazanah is also the Major Shareholder of TM Group.</p> <p>Ong King How is Khazanah's representative on Axiata's Board.</p>	<p>Purchase of dark fibre, bandwidth, space &amp; facility from Fibrecomm Network (M) Sdn Bhd to Celcom Group</p> <p><b>Non-telecommunication services</b></p>	5,000	3,741	5,500
				<p>Site rental payable for telecommunication infrastructure, equipment and related charges by Axiata Group to TM Group</p>	47,000	35,547	48,000
		EPF and Nurhisham Hussein	<p>In addition to EPF's shareholdings in Axiata Group, EPF is also the Major Shareholder of TM Group.</p> <p>Nurhisham Hussein is EPF's representative on Axiata's Board</p>				
<b>TOTAL</b>					<b>430,000</b>	<b>326,431</b>	<b>490,000</b>

## DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES (cont'd)

Transacting Companies in Axiata Group	Transacting Related Parties	Interested Major Shareholder / Director	Nature of Relationship	Nature of RRPT	2021 Shareholders' Mandate		Estimated value of the Proposed Shareholders' Mandate (RM'000) <sup>(2)</sup>
					Estimated Value (RM'000)	Actual Value (RM'000) <sup>(1)</sup>	
Axiata Group	edotco Group Sdn. Bhd. and/or its subsidiaries ("edotco Group")	Khazanah, Ong King How	In addition to Khazanah's shareholdings in Axiata Group, Khazanah, through its wholly owned subsidiary, Mount Bintang Sdn. Bhd. is also the Major Shareholder of edotco.  Kenneth Shen is Khazanah's representative on edotco's Board.	<b><u>Revenue to Axiata Group/ Cost to edotco Group</u></b>			
				<b>Telecommunication and related services</b>			
				Repair & maintenance & other service charges by Axiata Group to edotco Group	13,000	3,287	20,000
				Technical and management services fees and other services charges by Axiata Group to edotco Group	17,000	9,205	15,000
			<b><u>Cost to Axiata Group/ Revenue to edotco Group</u></b>				
			<b>Telecommunication and related services</b>				
			Infrastructure leasing and related services including managed and field line maintenance services by edotco Group to Axiata Group	1,260,000	1,009,946	1,380,000	
			<b>TOTAL</b>	<b>1,290,000</b>	<b>1,022,438</b>	<b>1,415,000</b>	

## DETAILS OF RRPTS TO BE ENTERED INTO WITH OUR RELATED PARTIES (cont'd)

Transacting Companies in Axiata Group	Transacting Related Parties	Interested Major Shareholder / Director	Nature of Relationship	Nature of RRPT	2021 Shareholders' Mandate <sup>(4)</sup>		Estimated value of the Proposed Shareholders' Mandate (RM'000) <sup>(2)</sup>
					Estimated Value (RM'000)	Actual Value (RM'000)	
Axiata Group	Khazanah Nasional Bhd and/or its other related entities ("Khazanah Group")	Khazanah, Ong King How	In addition to Khazanah's shareholdings in Axiata Group, Khazanah is also the Major Shareholder of these companies.	<b><u>Revenue to Axiata Group/ Cost to other related entities in Khazanah Group</u></b>			
				<b>Telecommunication and related services</b>			
				Leased line services	-	-	1,000
				Cybersecurity, Network and Managed Services	-	-	64,000
				<b>Non-telecommunication services</b>			
				Disposal of Asset - Recycling services	-	-	1,000
				<b><u>Cost to Axiata Group/ Revenue to other related entities in Khazanah Group</u></b>			
				<b>Telecommunication and related services</b>			
				Provision of telecommunication services	-	-	9,000
				Site rental	-	-	2,000
<b>Non-telecommunication services</b>							
Transportation and Dismantling Costs	-	-	3,000				
			<b>TOTAL</b>	-	-	<b>80,000</b>	

**Notes:**

- <sup>(1)</sup> *The actual values represent RRPTs transacted from 15 June 2021 to 31 March 2022.*
- <sup>(2)</sup> *The estimated values of the transactions from 26 May 2022 (date of our forthcoming AGM) for an estimated validity period of one (1) year are based on best estimates by our management using historical trends and projected business transaction growth. The actual value may vary, exceed or be lower than, the estimates shown above.*
- <sup>(3)</sup> *The RRPTs disclosed herein are premised on the basis that the Proposed Merger between Celcom Axiata Berhad and Digi is yet to be completed.*
- <sup>(4)</sup> *There was no shareholders' mandate sought for such RRPTs in 2021 as these are new RRPTs to be transacted with other entities in Khazanah Group for the financial year ending 2022 until the next AGM, due to our Group's acquisition of new entities during the year.*

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## FURTHER INFORMATION

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### 1. DIRECTORS' RESPONSIBILITY STATEMENT

Our Directors have seen and approved this Circular and they collectively and individually accept full responsibility for the accuracy of the information in this Circular. They confirm, after making all reasonable enquiries, that to the best of their knowledge and belief, there are no other facts the omission of which would make any statement in this Circular misleading.

### 2. MATERIAL CONTRACTS

Neither we nor any of our subsidiaries have entered into any contract outside the ordinary course of business which are or may be material during the two years immediately preceding the LPD, save as follows:

- (a) On 30 November 2021, edotco Malaysia Sdn. Bhd., a wholly owned subsidiary of edotco Group Sdn. Bhd. which in turn is a 63.0% owned subsidiary of Axiata, entered into a share sale agreement ("**SSA**") with Touch Group Holdings Sdn. Bhd. ("**TGHSB**") for the acquisition of the entire issued and paid-up share capital of Touch Mindscape Sdn. Bhd. comprising 14,100,000 ordinary shares, and 10,900,000 preference shares held by TGHSB for a total purchase consideration of RM1,700 million. Axiata also entered into a memorandum of understanding with TGHSB to jointly explore potential opportunities to collaborate in the information and communications technology infrastructure industry in Malaysia.

The acquisition was completed on 20 December 2021 for a net purchase consideration of RM1,586.4 million after adjustments provided under the terms and conditions of the SSA. Accordingly, our Group's equity interest in Touch Mindscape Sdn. Bhd. is 63.0% as at 31 December 2021 and the LPD.

- (b) On 21 June 2021, Axiata entered into the following agreements:
- (i) a conditional share purchase agreement with Digi, where subject to the terms and conditions of the share purchase agreement, 100% equity interest of Celcom Axiata Berhad ("**Celcom**") held by Axiata shall be transferred to Digi for a total consideration of RM17.8 billion ("**Combination Consideration**") and the Combination Consideration shall be settled by:
- (A) the issuance by Digi of 3,883,129,144 new ordinary shares in Digi ("**Digi Shares**") or such number of Digi Shares representing 33.10% of the enlarged issued share capital of Digi to Axiata on the closing of the share purchase agreement;
- (B) the issuance by Digi of 73,378,844 new Digi Shares or such number of Digi Shares representing 0.63% of the enlarged issued share capital of Digi ("**Relevant Digi Shares**") to Telenor Asia as nominee of Axiata on the closing of the share purchase agreement subject to, amongst others, the receipt by Axiata of a cash consideration of RM297.9 million ("**Relevant Digi Shares Cash Consideration**") for the purpose of the Proposed Equalisation (as defined hereunder) in accordance with the master transaction agreement;
- (C) subject to adjustment as set out in the share purchase agreement, the payment by Digi of a cash consideration of RM1.7 billion to Axiata on the closing of the share purchase agreement; and

- (ii) a master transaction agreement with Telenor Asia and Telenor ASA (“**Telenor**”), where amongst others, Telenor and Axiata agree to, and shall procure their respective affiliates to, co-operate with each other for the purpose of achieving the closing of the share purchase agreement, and subject to the terms of the share purchase agreement, Telenor Asia shall on the closing of the share purchase agreement:
- (A) subscribe for the Relevant Digi Shares; and
- (B) pay Axiata the Relevant Digi Shares Cash Consideration on the closing of the share purchase agreement (“**Proposed Equalisation**”).
- (c) On 27 January 2022, Axiata Investments (Indonesia) Sdn Bhd (“**All**”), an indirect wholly-owned subsidiary of Axiata, and PT XL Axiata Tbk (“**XL**”), an indirect 61.48% owned subsidiary of Axiata, entered into a conditional share purchase agreement with Asia Link Dewa Pte. Ltd. and PT First Media Tbk (collectively referred to as the “**Sellers**”), for the proposed acquisition of 1,816,735,484 ordinary shares (“**Link Net Shares**”) in PT Link Net Tbk (“**Link Net**”), representing approximately 66.03% equity interest in Link Net for a total cash consideration of Indonesian Rupiah 8,720.3 billion (equivalent to approximately RM2,546.3 million) (“**Proposed Acquisition**”).

Upon completion of the Proposed Acquisition, the aggregate shareholdings of All and XL in Link Net will increase from nil to 66.03% resulting in a change of control of Link Net, following which All will be obligated to undertake the proposed mandatory tender offer to acquire all the remaining Link Net Shares not owned by All and XL after the Proposed Acquisition pursuant to OJK Regulation No. 9/POJK.04/2018 on Public Company Takeover issued by the Indonesian Financial Services Authority (Otoritas Jasa Keuangan).

### 3. MATERIAL COMMITMENTS AND CONTINGENT LIABILITIES

As at the LPD, save as disclosed below, our Board is not aware of any material commitments incurred or known to be incurred by our Group which upon becoming enforceable, may have a material impact on the financial position of our Group.

#### Material commitments:

Capital expenditure	Axiata Group
	RM (mil) <sup>(1)</sup>
Approved and contracted for	3,957
<b>Total</b>	<b>3,957</b>

Note:

(1) Based on closing exchange rate as at 31 March 2022.

As at the LPD, save as disclosed below, our Board is not aware of any contingent liabilities incurred or known to be incurred by our Group which upon becoming enforceable, may have a material impact on the financial position of our Group.

#### Contingent liabilities:

Description	Axiata Group
	RM (mil) <sup>(1)</sup>
Litigation and claims by third parties against subsidiaries of Axiata	15,451
<b>Total exposure</b>	<b>15,451</b>

Note:

(1) Based on closing exchange rate as at 31 March 2022.

#### 4. MATERIAL LITIGATION, CLAIMS OR ARBITRATION

As at the LPD, neither we nor any of our subsidiaries are engaged in any material litigation, claims and/or arbitration either as plaintiff or defendant, which may materially adversely affect our income from, title to, or possession of any of our assets and/or business, and we are not aware of any proceedings, pending or threatened, or of any facts likely to give rise to any proceedings which may materially adversely affect the financial position or business of our Group, save as follows:

(a) **Celcom Axiata Berhad (formerly known as Celcom (Malaysia) Berhad) (“Celcom”) and Celcom Resources Berhad (formerly known as Technology Resources Industries Berhad) (“Celcom Resources”) vs Tan Sri Dato’ Tajudin bin Ramli (“TSDTR”) & 6 Others**

On 24 October 2008, Celcom and Celcom Resources commenced proceedings against five (5) of its former directors, namely (i) TSDTR, (ii) Dato’ Bistaman bin Ramli (“**BR**”), (iii) Dato’ Lim Kheng Yew (“**DLKY**”), (iv) Axel Hass (“**AH**”), and (v) Oliver Tim Axmann (“**OTA**”) (the Defendants named in items (iv) and (v) are collectively referred to as the “**German Directors**”), as well as (vi) DeTeAsia Holding GmbH (“**DeTeAsia**”) and (vii) Beringin Murni Sdn. Bhd. (collectively with the German Directors referred to as “**Defendants**”).

Celcom and Celcom Resources are seeking for damages for conspiracy against the Defendants. Celcom and Celcom Resources claim that the Defendants wrongfully and unlawfully conspired with each other to injure Celcom and Celcom Resources by causing and/or committing Celcom and Celcom Resources to enter into the Supplemental Agreement to the Subscription Agreement and the Management Agreement dated 7 February 2002 (“**the 2002 Supplemental Agreement**”) and the Amended and Restated Supplemental Agreement dated 4 April 2002 with DeTeAsia (“**the ARSA**”) in consideration for the renunciation by DeTeAsia of certain rights issue shares in Celcom Resources in favour of TSDTR and BR (“**Main Suit 1**”).

Separately, Celcom and Celcom Resources reached an amicable settlement with DLKY and the said companies filed their respective notice of discontinuance with no order as to costs and without liberty to file afresh against DLKY on 6 March 2015.

On 23 June 2016, TSDTR and BR filed a statement of defence (“**Defence for Main Suit 1**”) and counterclaim against Celcom, Celcom Resources and Telekom Malaysia Berhad (“**TM**”), seeking among others payment of the sum of RM6,246.5 million or alternatively the sum of RM7,214.9 million together with interest, being the amount claimed by TSDTR and BR in their counterclaims filed in the Kuala Lumpur High Court, Suit No. D2-22-673-2006 (“**Danaharta Suit**”) which was subsequently withdrawn pursuant to a purported global settlement which did not include Main Suit 1 (“**TSDTR and BR’s Counterclaim for Main Suit 1**”). The German Directors filed their respective defences on 30 June 2017. TM filed an application to intervene in the Main Suit 1 in light of the allegations made against TM in TSDTR and BR’s Counterclaim against Main Suit 1.

The trial and TSDTR and BR’s Counterclaim for Main Suit 1 commenced on 22 January 2018. Celcom and Celcom Resources obtained leave to continue proceedings against TSDTR and BR in light of a Receiving Order and Adjudication Order (“**ROAO**”) obtained against TSDTR and BR on 8 May 2018. TSDTR and BR were also granted leave to defend their case and continue with the TSDTR and BR Counterclaim against Main Suit 1.

Celcom and Celcom Resources have reached an amicable settlement with DeTeAsia and the German Directors in relation to the conspiracy and the indemnity suits. The parties entered into a settlement agreement dated 15 November 2021 without any admission of liability by the parties and pursuant to the foregoing, Celcom and Celcom

Resources will discontinue the conspiracy and the indemnity suits and without liberty to file afresh against DeTeAsia.

The application for leave to discontinue the trial against DeTeAsia and the German Directors and record consent judgment was heard on 19 November 2021. The Kuala Lumpur High Court has since fixed 20 April 2022 to hear oral submissions by both parties against TSDTR and BR, and will thereafter fix a decision date.

The solicitors are of the opinion that Celcom and Celcom Resources have reasonable prospects of success in their claims for indemnity against TSDTR and BR, and that Celcom and Celcom's also have reasonable prospects of successfully defending TSDTR and BR's Counterclaim for Main Suit 1.

**(b) Celcom & Another vs TSDTR & 8 Others**

On 28 April 2006, Celcom and Celcom Resources instituted a claim against nine of its former directors (namely (i) TSDTR, (ii) BR, (iii) DLKY, (iv) Dieter Sieber ("**DS**"), (v) Frank-Reinhard Bartsch ("**FRB**"), (vi) Joachim Gronau, (vii) Joerg Andreas Boy ("**JAB**"), (viii) AH, and (ix) OTA), (the Defendants named in items (iv) to (ix) collectively referred to as the "**German Directors**") (collectively referred to as "**Defendants**").

Celcom and Celcom Resources are seeking an indemnity from the Defendants, for the sums paid by Celcom to DeTeAsia in satisfaction of the award granted in August 2005 ("**Award**") handed down by the Tribunal of the International Court of Arbitration of the International Chamber of Commerce in Paris ("**ICC**") alleging that they had breached their fiduciary duties by causing Celcom Resources to enter into a Subscription Agreement dated 25 June 1996 with Deutsche Telekom AG ("**Subscription Agreement**"), and Celcom and Celcom Resources to enter into the ARSA with TR International Ltd and DeTeAsia whilst they were directors of Celcom and Celcom Resources.

In addition, Celcom and Celcom Resources have also made a claim against TSDTR only, for return of the alleged unauthorised profits made by him, all monies received by the directors arising out of such breaches, losses and damages in connection with the abovementioned agreements ("**Main Suit 2**").

In brief, Celcom and Celcom Resources are seeking for the following:

- (i) A declaration that the Defendants have acted in breach of their fiduciary duties and are liable to indemnify Celcom in relation to the sums paid out to DeTeAsia pursuant to the Award where the ICC found Celcom to be liable for the following:
  - (aa) The sum of USD177.2 million (RM745.2 million) being the principal sum plus USD16.3 million (RM68.3 million) representing interest at the rate of 8.0% for the period from 16 October 2002 to 27 June 2003;
  - (bb) The cost of arbitration amounting to USD0.8 million (RM3.4 million); and
  - (cc) The sum of USD1.8 million (RM7.6 million) representing the legal costs.
- (ii) Damages for various breaches of fiduciary duties committed by them in relation to the entry into the Subscription Agreement and the ARSA.
- (iii) The unauthorised profits claimed to have been made by TSDTR, amounting to RM446.0 million.



The Kuala Lumpur High Court had ruled that the claim against the nine directors as well as Main Suit 2 will be jointly heard with the claims as set out in section 4(a) of Appendix II of this Circular.

The solicitors are of the opinion that Celcom and Celcom Resources have reasonable prospects of success in their claims for indemnity, and that Celcom and Celcom Resources' prospects of successfully defending TSDTR and BR's Counterclaim for Main Suit 2 are reasonably good.

(c) **Robi Axiata Limited ("Robi") vs Commissioner of Large Taxpayer Unit ("LTU-VAT") and Ors. (SIM Replacement Tax)**

**Robi SIM Replacement Dispute 2007-2011**

On 17 May 2015, the LTU-VAT of the National Board of Revenue ("**LTU-VAT of the NBR**") issued a revised demand letter for BDT4,145.5 million (RM202.0 million) [the earlier show cause letter dated 23 February 2012 for BDT6,549.9 million (RM319.2 million)] ("**2007 to 2011 Revised Claim**") to Robi alleging that Robi had evaded payment of supplementary duty and VAT levied on the issuance of a certain number of SIM cards to new customers of Robi for the duration from March 2007 to June 2011 when such SIM cards were issued as replacement cards to the existing subscribers of Robi.

In August 2015, Robi filed an appeal against the 2007 to 2011 Revised Claim to the Customs, Excise and VAT Appellate Tribunal. Robi deposited 10.0% of the sum set out in the respective demand notices with the LTU-VAT of the NBR based on provisions of the VAT Act 1991. This appeal was first heard on 28 September 2016 by the Customs, Excise and VAT Appellate Tribunal and later reheard on 11 April 2017 by a reconstituted bench of the Customs, Excise and VAT Appellate Tribunal. The Customs, Excise and VAT Appellate Tribunal dismissed Robi's appeal.

In September 2017, Robi filed an appeal to the High Court Division against the Customs, Excise and VAT Appellate Tribunal's decision ("**VAT Appeal No.1**"). This VAT Appeal No. 1 is currently pending for hearing before the High Court Division.

**Robi SIM Replacement Dispute July 2012 to July 2015**

On 20 November 2017, the LTU-VAT of the NBR issued a demand letter for BDT2,852.0 million (RM139.0 million) ("**2012 to 2015 Claim**") to Robi alleging that Robi had evaded payment of supplementary duty and VAT levied on the issuance of certain number of SIM cards to new customers of Robi for the duration from July 2012 to June 2015 when such SIM cards were issued as replacement cards to the existing subscribers of Robi.

On 18 February 2018, Robi filed an appeal against the 2012 to 2015 Claim to the Customs, Excise and VAT Appellate Tribunal on the basis that replacement cards do not establish new connections and do not change existing subscribers' numbers. Robi deposited 10.0% of the sum set out in the respective demand notices with the LTU-VAT of the NBR based on provisions of the VAT Act 1991. This appeal was dismissed by the Customs, Excise and VAT Appellate Tribunal.

Robi then filed an appeal to the High Court Division against the Customs, Excise and VAT Appellate Tribunal's decision ("**VAT Appeal No.2**").

On 23 November 2020, both VAT Appeal No.1 and VAT Appeal No.2 pending in the High Court Division were fixed for hearing whereupon the High Court Division ordered parties to file the remaining paper books.

On 3 December 2020, the High Court Division took the view that Robi needed to file a revision application for the VAT Appeal No.2 under the new VAT and Supplementary

Duty Act 2012 which became effective on 1 July 2019, and pursuant thereto, to deposit a further 10.0% of the sum set out in the respective demand notices with the LTU-VAT of the NBR.

Robi had filed written arguments against such views on the basis that the new VAT and Supplementary Duty Act 2012 is not applicable. This legal point was heard on 2 March 2021 in which the High Court Division dismissed Robi's argument on the basis that the appeal was not maintainable and advised Robi to file a revision application under the new VAT and Supplementary Duty Act 2012, to which Robi had on 23 March 2021 filed the Civil Miscellaneous Petition For Leave To Appeal ("**CMP**") before the Appellate Division contending the dismissal.

While the CMP was pending for hearing, the High Court Division issued the certified copy of the judgement on maintainability on 23 August 2021. Upon obtaining the certified copy, Robi accordingly filed a Civil Petition for Leave to Appeal ("**CP**") before the Appellate Division of the Supreme Court of Bangladesh. The CP is now pending for hearing.

For all of the aforementioned SIM replacement dispute matters, the solicitors are of the opinion that the grounds on which Robi is relying on are legally sound, and there is no legitimate basis for the demands made by the LTU-VAT of the NBR.

**(d) Robi vs LTU-VAT of the NBR (VAT Audit)**

The LTU-VAT of the NBR issued 5 show cause cum demand notices to Robi for a total amount of BDT9,245.0 million (RM450.5 million). Robi filed writ petitions for judicial review) on 3 May 2018 to challenge these claims. The details are as below. The LTU-VAT of the NBR referred the matter to the Directorate General of Audit Intelligence and Investigation ("**DGAI**") to re-examine the claims and as such, Robi is not pursuing the Writ Petitions.

- (i) The first show cause cum demand notice for BDT7,118.2 million (RM346.9 million) was issued based on the credit balance of VAT payable General Ledger ("**GL**") and VAT Return and VAT payable for the period from 2013 to 2016. While conducting its audit, the LTU-VAT of the NBR asked for month-on-month movement of output and withholding GL from Systems, Applications and Products i.e., SAP (Opening, debit balance during the month, credit balance during the month and closing balance). Robi had submitted the required documents. The LTU-VAT of the NBR just considered the total credit balance of SAP GL as payable and compared it with VAT return without considering the documents or explanation submitted by Robi.
- (ii) The second show cause cum demand notice for BDT910.5 million (RM44.4 million) alleges unpaid VAT on merger and spectrum fee. The LTU-VAT of the NBR which collected merger fee/spectrum information from the Bangladesh Telecommunication Regulatory Commission ("**BTRC**") in relation to merger directly, thereafter arbitrarily calculated VAT without considering Robi's documents and information regarding actual payment to BTRC. This issue has already been covered in item (i), nevertheless the LTU-VAT of the NBR still arbitrarily made the same claim separately.
- (iii) The third show cause cum demand notice for BDT16.5 million (RM0.8 million) is to claim that VAT is payable on interconnection charges from Bangladesh Telecommunications Limited ("**BTCL**") for 2012. The output VAT for BTCL service to customer is centrally collected by the LTU-VAT of the NBR and that BTCL cannot adjust input VAT on interconnection charges payable to Robi. Therefore, BTCL did not pay the VAT on same to Robi. This issue has already been covered in item (i), nonetheless the LTU-VAT of the NBR still arbitrarily made the same claim separately.

- (iv) The fourth show cause cum demand notice for BDT35.7 million (RM1.7 million) is to claim that VAT is payable on interconnection charges from BTCL for 2013 to 2016 (the issue is same as item (iii) of this case but relating to different period (2013-2016)).
- (v) The fifth show cause cum demand notice for BDT1,164.1 million (RM56.7 million) is for VAT rebate cancellation on imported telecom items. The LTU-VAT of the NBR directly collected imports information from Customs Authority, then cancelled few imported items such as battery, switch, cable, router, system, etc. on arbitrary basis. These are the integral parts of machineries and spare parts.

Pursuant to re-examinations of the aforementioned demand notices by the DGAI, the LTU-VAT of the NBR issued 4 new show cause notices dated 22 March 2020 to Robi on the cumulative amount of BDT7,459.5 million (RM363.5 million) for the period of January 2013 to December 2016, details of which are set out as follows:

- (i) The first show cause notice is on BDT3,676.0 million (RM179.1 million) in relation to VAT deducted at source on grounds of (I) withholding VAT on handsets; (II) withholding VAT on dealer's commission; (III) withholding VAT not paid on revenue sharing on the basis of audited financial statements; (IV) less withholding VAT paid on the basis of audited accounts etc.
- (ii) The second show cause is on BDT394.3 million (RM19.3 million) in relation to VAT of BDT368.6 million (RM18.0 million) and supplementary duty payment of BDT25.7 million (RM1.3 million) based on Robi's audited financial statements.
- (iii) The third show cause notice is on BDT1,308.0 million (RM63.7 million) in relation to VAT on revenue sharing.
- (iv) The fourth show cause notice is on BDT2,081.2 million (RM101.4 million) in relation to VAT rebate cancellation.

Robi had filed writ petitions for judicial review on 27 June 2020 to the High Court Division against these 4 new show-cause notices. The High Court Division subsequently issued rules nisi in favour of Robi on 31 August 2020. The rules nisi are pending for hearing.

The solicitors are of the opinion that the grounds on which Robi has challenged the notices is legally sound.

**(e) Robi vs BTRC**

The BTRC conducted an audit on Robi's information system for the years between 1997 to 2014 and issued a claim of BDT8,672.4 million (RM422.6 million) against Robi on 31 July 2018 ("**Information System Audit Claim**"). This Information System Audit Claim is disputed by Robi and a Notice of Arbitration was served on BTRC on 30 May 2019.

On 13 June 2019, notwithstanding Robi's Notice of Arbitration, the BTRC directed Robi to make payment for the Information System Audit Claim within 10 days. Challenging the demand, Robi filed a suit on 25 August 2019 before the Joint District Judge, Dhaka seeking a declaration and permanent injunction against BTRC's Information System Audit Claim. The District Court admitted the suit.

Additionally, Robi filed an application seeking an ad interim relief in relation to: (i) temporary injunction restraining BTRC from demanding payment of the Information System Audit Claim; (ii) temporary injunction restraining BTRC from causing any interference with the operation of Robi's mobile telecommunication services; and (iii) direction from the court to the effect that BTRC shall issue all relevant No Objection

Certificate(s) for the importation of telecommunication equipment and software, and grant all relevant approvals for tariff, service, package, etc. as and when required by Robi from time to time.

The abovementioned application for ad interim relief was dismissed on 1 September 2019 by the Joint District Judge, Dhaka. Robi referred an appeal before the High Court Division in respect of the rejection of temporary injunction application on 5 September 2019.

On 5 January 2020, the High Court Division issued an injunction upon BTRC on condition that Robi deposit BDT1,380.0 million (RM69.0 million) in five instalments. Robi has deposited these five equal instalments up to 31 May 2020. Robi had on 31 March 2022 filed its written statement at the High Court Division. This matter is currently pending for hearing before the Joint District Judge in Dhaka.

The solicitors are of the opinion that Robi has reasonable grounds for success.

**(f) Robi vs LTU-VAT of the NBR (VAT Rebate Cancellation)**

For the period of 2010 to 2016, Robi claimed rebate for input VAT payable on certain services and goods related to capital machineries (i.e. antenna, cable, media gateway switch, battery, modem, telephone and telegraphic switch, power system, optical multi service systems, universal service router, printed service board, racks, etc.). The LTU-VAT of the NBR cancelled the rebates and issued the following demand notices cumulatively for BDT3,636.2 million (RM177.3 million) to which Robi is challenging:

- (i) The demand notice for the period of March 2012 to April 2013 is for BDT830.6 million (RM40.5 million).
- (ii) The demand notice for the period of July 2013 to June 2014 is for BDT596.8 million (RM29.1 million).
- (iii) The demand notice for the period of July 2014 to January 2016 is for BDT993.2 million (RM48.4 million).
- (iv) The demand notice for the period of February 2016 to April 2016 for BDT41.0 million (RM2.0 million).
- (v) The demand notice for the period of May 2016 to December 2016 is for BDT707.7 million (RM34.5 million).
- (vi) The demand notice for the financial years of 2010 to 2012 is for BDT466.9 million (RM22.8 million).

Robi filed VAT appeals to the High Court Division on 26 August 2013 for item (i), 21 January 2019 for items (ii) to (v), and on 1 June 2020 for item (vi). For item (i), Robi paid the amount in full. For items (ii) to (vi), Robi deposited 10.0% of the sum set out in the respective demand notices with the LTU-VAT of the NBR based on the provisions of the VAT Act 1991.

All the cases are currently pending for hearing before the High Court Division and the solicitors are of the opinion that Robi has reasonable grounds for success.

**(g) Robi vs Commissioner of Taxes**

The Commissioner of Taxes assessed the income tax return of Robi and disallowed certain losses and expenses (i.e. subsidy on acquisition expenses/promotional expense (SIM tax subsidy), foreign exchange losses, non-adjustment of depreciation allowances, etc.) and further determined the income tax payable as follows:

- (i) for the assessment year 2013-2014, BDT2,273.6 million (RM110.8 million) and interest of BDT378.2 million (RM18.4 million);
- (ii) for the assessment year 2014-2015, BDT2,246.3 million (RM109.5 million) and interest of BDT414.4 million (RM20.2 million); and
- (iii) for the assessment year 2015-2016, BDT2,263.2 million (RM110.3 million) and interest of BDT295.3 million (RM14.4 million).

Robi has referred its appeals to the High Court Division against the Commissioner of Taxes' respective determination and such appeals are pending hearing before the High Court Division.

The solicitors are of the opinion that Robi has reasonable grounds for success.

**(h) Robi vs BTRC (VAT Payment Dispute Related To 2G Licence Fee Payment)**

During the 2G licence renewal in 2011, BTRC demanded VAT on spectrum fees. Mobile operators agreed to withhold the VAT in compliance with the VAT Act 1991. However, BTRC refused and demanded the spectrum fees without any deductions. As such, all the mobile operators filed writ petitions at the High Court Division, including Robi.

Robi challenged the provisions in the VAT rules and argued that there should be no VAT on spectrum and even if there was any, any services provided by BTRC is VAT exempted under the VAT Act 1991. Robi also argued that BTRC is not a VAT registered entity and is unable to issue VAT receipts (a requirement under relevant VAT laws). The High Court Division ordered BTRC to register for VAT and ordered Robi to deposit the amount, including VAT, of BDT1,468.6 million (RM71.6 million); which Robi duly did. However, BTRC refused to register for VAT or the VAT receipt and appealed against the High Court Division's decision to the Appellate Division. Robi also filed an appeal before the same Appellate Division.

Despite clear provisions in the relevant legislations, BTRC has yet to register for VAT, which defeats the legitimate demand of receipt by the mobile operators which will then enable the mobile operators to obtain rebate/credit for the VAT paid. BTRC had also included this claim in the BTRC audit claim.

In relation to the 2nd instalment of spectrum fees (2G License), Robi claimed rebate of BDT826.8 million (RM40.3 million), but the LTU-VAT of the NBR cancelled the rebate, as there was no VAT receipt issued by BTRC. Robi challenged the cancellation by a separate writ petition being Writ Petition No. 14977 of 2012 which is still pending before the High Court Division.

In both cases, 100.0% of the licence renewal fees have been capitalised by Robi per the requirement of the law (including the High Court Division's order that BTRC should register for VAT and should issue the VAT receipt), hence Robi's VAT exposure should be nil. However, if the Appellate Division's judgement has retrospective effect, Robi's financial exposure on the capitalised license renewal fees would increase by 15.0%.

The solicitors are of the opinion that Robi has reasonable grounds for success.

**(i) Robi vs LTU-VAT of the NBR (Demand For Payment Of Interest Charge For Robi's Alleged Late Payment)**

The LTU-VAT of the NBR alleged that Robi failed to deposit the amount of BDT1,818.0 million (RM88.6 million) as VAT and supplementary duty levied on 2.3 million pieces of SIM cards sold by Robi for the period of August 2006 to March 2007.

Robi filed a writ petition against the said demand which was stayed by the High Court Division. Later, the LTU-VAT of the NBR filed an appeal against the stay and the stay

was vacated. As a result, the LTU-VAT of the NBR coercively realised the demanded amount of BDT1,818.0 million (RM88.6 million). Although the LTU-VAT of the NBR realised the demanded amount, the LTU-VAT of the NBR further issued a demand letter for payment of BDT2,660.5 million (RM129.6 million) as interest on the amount charged for the late payment. Therefore, Robi filed another writ petition in relation to the claim of BDT2,660.5 million (RM129.6 million).

Both the cases are pending before the High Court Division and the solicitors are of the opinion that Robi has reasonable grounds for success.

**(j) Dialog Broadband Networks (Private) Limited (Amalgamated with Suntel Limited) (“DBN”) vs Electroteks Network Services (Private) Limited (“Electroteks”)**

On 20 November 2001, DBN initiated a claim against Electroteks for SLR68.8 million (RM1.4 million) to recover an outstanding amount due for the provision of telecommunication facilities. This claim has concluded and is currently at execution stage.

On 30 May 2002, Electroteks filed a counterclaim for SLR4,200.0 million (RM59.2 million) together with the interest thereon and it was allowed by the court (“**Counterclaim Judgment**”). DBN filed an appeal against the Counterclaim Judgment to the Supreme Court of Sri Lanka.

Pending disposal of the aforesaid appeal, Dialog Axiata Plc., the holding company of DBN, has provided a bank guarantee for SLR1,000.0 million (RM14.1 million) and a corporate guarantee for SLR3,200.0 million (RM45.1 million) to stay execution of the Counterclaim Judgment.

Parties filed written submissions on 30 November 2016. The Judgment was delivered by the Supreme Court of Sri Lanka on 14 December 2018 allowing the appeal of DBN and setting aside the Judgment of the Commercial High Court. Principal sum with the legal interest as at 14 December 2018 is SLR11,608.9 million (RM163.7 million).

Electroteks has filed a revision application in the Supreme Court of Sri Lanka under Case Number SC/MISC/3/2019 against the Judgment delivered by the Supreme Court of Sri Lanka and the matter came up for support on 17 May 2019. On that date, the Presiding Judge of the Supreme Court bench referred the matter to be mentioned on 12 June 2019 before a bench comprising the judges who delivered the Judgment. However, when the matter came up on 12 June 2019, no direction was made by the Supreme Court.

On 14 September 2020, the order was reserved by the Supreme Court, but no date was provided on when the Supreme Court will deliver said order. Based on the merits of the case, the solicitors are of the opinion that Electroteks’ application for leave to proceed is likely to be refused by the Supreme Court.

**(k) Writ petition filed by 6 individuals against Ncell Private Limited (“Ncell”), Reynolds Holdings Limited (“Reynolds”), Axiata Investments (UK) Limited (“Axiata UK”), Large Tax Payers’ Office of Nepal (“LTPO”), Inland Revenue Department of Nepal (“IRD”), Nepal Rastra Bank, Department of Industry, Industry and Investment Promotion Board, Nepal Telecommunications Authority, Sunivera Capital Ventures Pvt. Ltd. and the Office of Company Registrar**

A public interest litigation (“**PIL**”) has been filed at the Supreme Court of Nepal (“**SC**”) seeking various orders from the SC including that tax to be collected from Ncell and Axiata UK in relation to the indirect transfer to Axiata UK of an 80.0% stake in Ncell through the sale of Reynolds by Ncell’s previous foreign investor, TeliaSonera Norway Nepal Holdings AS (“**TeliaSonera**”) to Axiata UK (“**Transaction**”).

The SC issued its full written order on 9 April 2019 (“**Order**”) in relation to its oral order dated 6 February 2019 that the LTPO should determine the outstanding tax to be paid in relation to the Transaction within three months from the date of receipt of the Order by the LTPO and that the responsibility to pay tax lies with Ncell and Axiata Group Berhad, the latter who is not a party to the PIL. Ncell received a letter issued by the LTPO on 16 April 2019 stating that its assessment order in relation to the Transaction initially issued to TeliaSonera (“**Telia Assessment**”) is now transferred to Ncell and that the further balance amount of the Capital Gains Tax (“**CGT**”) arising from the Transaction is NPR39,060.7 million (RM1,353.8 million). Ncell is ordered to deposit the said amount within 7 days, or by 22 April 2019 (“**LTPO Direction**”).

Ncell had on 21 April 2019 filed a Writ Petition for Certiorari, Prohibition and Mandamus to the SC against the LTPO, IRD and the Ministry of Finance of Nepal (“**Ncell Application**”) for an annulment of the LTPO Direction and to challenge the legality of the LTPO Direction on grounds, including but is not limited to: (a) that the LTPO Direction in transferring the Telia Assessment unto Ncell is not in compliance with the procedures as required under the Income Tax Act, 2058 (2002) (“**ITA**”); (b) that the LTPO is obliged to undertake a tax assessment on Ncell and not, as demanded in the LTPO Direction, merely a tax collection; (c) that in issuing the LTPO Direction, the LTPO has: (i) failed in providing or affording Ncell the opportunity in making any submission or representation in relation to the imposed tax liability; and (ii) failed in providing Ncell with the option to file or submit an application for administrative review over the LTPO Direction.

Following the Ncell Application, the SC on 25 April 2019 issued a show cause order against the LTPO, IRD and the Ministry of Finance of Nepal (collectively, the “**Respondents**”) to appear before a Division Bench on 6 May 2019 (“**Hearing Date**”) and that a temporary stay order is granted until the Hearing Date, during which period the Respondents were refrained from taking any steps to enforce the LTPO Direction against Ncell.

The Division Bench on 7 May 2019 ordered that a full bench of the SC to be convened to hear and decide on the Ncell Application and that the temporary stay order granted on 25 April 2019 be continued, in the period of which the Respondents are refrained from taking any steps against Ncell. Hearing of the Ncell Application before a full bench of the SC was concluded on 7 July 2019.

On 26 August 2019, the SC issued a short-form judgment on the Ncell Application (“**Short Form Order**”) in which the SC partially upheld the Ncell Application. The full written judgment of the SC’s decision was issued on 21 November 2019 (“**SC Judgment**”). The SC Judgment states that the prior tax amount assessed by the LTPO is to be reduced to the extent of fees purportedly levied under section 120(a) of the Nepalese Income Tax Act which were found to be unlawful. The SC has held that Ncell remains liable to pay NPR21,104.0 million (RM731.4 million) in allegedly outstanding CGT (including fees pursuant to sections 117(1)(a) and (c) and interest pursuant to sections 118 and 119 until the date of deposit) in relation to the Transaction.

Following this SC Judgment, on 6 December 2019, the LTPO demanded that Ncell pay NPR22,445.1 million (RM777.9 million) in allegedly outstanding CGT (including interest and penalties) (“**Demand Amount**”). On 22 December 2019, the LTPO issued a second demand letter, repeating the demand from 6 December 2019 for Ncell to deposit the sums demanded within 15 days (collectively, the “**LTPO Demand Letters**”). On 12 April 2020, Ncell settled the Demand Amount and an additional sum of NPR990.3 million (RM35.0 million) as interest (collectively, the “**Total Amount**”). Ncell’s payment of the Total Amount was made under protest and expressly without prejudice to Ncell and Axiata UK’s position in the international arbitration proceedings commenced by Ncell and Axiata UK against the Federal Democratic Republic of Nepal (detailed below).

The LTPO Demand Letters represent a clear violation of the terms of the Provisional Measures Order (defined below) issued by the Tribunal on 18 December 2019 in the arbitration proceedings commenced by Ncell and Axiata UK which ordered Federal Democratic Republic of Nepal ("**Nepal**"), its agencies and officials to refrain from, amongst other things, taking any steps to enforce or otherwise give effect to the LTPO Demand Letters. The Provisional Measures Order is legally binding on Nepal and its agencies under international law.

### **Arbitration of Axiata UK and Ncell vs Nepal**

Following the LTPO Demand Letters, Axiata UK and Ncell have filed a Request for Arbitration ("**Request**") with the International Centre for the Settlement of Investment Disputes ("**ICSID**") pursuant to the Agreement dated 2 March 1993 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Nepal for the Promotion and Protection of Investments ("**Bilateral Investment Treaty**").

Axiata UK and Ncell's claims as set out in the Request relate to Nepal's conduct in contravention of its international law obligations under the Bilateral Investment Treaty. In particular, the claims relate to Nepal's conduct in imposing capital gains tax in connection with Axiata UK's acquisition of 100.0% of the shares of Reynolds, which owns 80.0% of the shares of Ncell.

Axiata UK and Ncell dispute the entirety of the CGT allegedly payable by Ncell in connection with the Transaction and will argue, among other things, that the imposition of CGT by Nepal in relation to the Transaction is unlawful. Axiata UK and Ncell will seek remedies including restitution of sums already paid, a permanent injunction against further attempts to collect CGT from Ncell in connection with the Transaction and damages for all losses suffered in consequence of Nepal's unlawful conduct. Ncell has paid a total of NPR47,009.9 million (RM1,629.3 million) in alleged outstanding CGT.

Pursuant to the ICSID, Axiata UK and Ncell appointed Albert Jan van den Berg (Dutch) on 23 July 2019 as their chosen arbitrator. The arbitration tribunal ("**Tribunal**") was fully constituted on 18 October 2019, the other members being Paul Friedland (American) and Professor Joongi Kim (Korean, presiding arbitrator).

On 18 December 2019, the Tribunal granted Axiata UK and Ncell's application for provisional measures in large part and ordered that Nepal, its organs, agencies and officials, including the LTPO and the IRD, immediately be restrained from:

- (i) taking any steps to enforce or otherwise give effect to the demand letter served by the LTPO against Ncell dated 6 December 2019 in which the LTPO demanded that Ncell pay NPR22,445.1 million (RM777.9 million) in allegedly outstanding CGT (including interest and penalties) in connection with the Transaction; and
- (ii) taking any steps which would alter the status quo between Axiata UK, Ncell and Nepal or aggravate the present dispute (together, the "**Provisional Measures Order**").

A merits hearing was originally scheduled to take place in two (and potentially three) sessions. The first session was scheduled for 29 November 2021 to 3 December 2021, with the second session to take place on 11-16 April 2022, and with 4-5 July 2022 in reserve. However, by a decision of 28 November 2021, the Tribunal postponed the November/December 2021 session of the hearing due to the emergency hospitalisation of one of Nepal's lawyers. By Procedural Order No. 9 dated 3 December 2021, the Tribunal ordered that the hearing be deferred to 11-22 April 2022, with 4-5 July 2022 in reserve.

The solicitors are of the opinion that Axiata UK and Ncell have strong prospects of success in the arbitration proceedings against Nepal.



(I) **Ncell vs LTPO and others**

**Amended Assessment Notice by the LTPO**

Notwithstanding letters dated 12 April 2020 and 15 April 2020 by the LTPO to confirm that Ncell has fully discharged all of its tax obligations under the ITA arising from the Transaction, the LTPO issued a notice dated 25 December 2020 (“**Reassessment Notice**”) under section 101(6) of the ITA to amend its earlier tax assessment of the income tax return filed by Ncell for the fiscal year of 2015 to 2016, being the fiscal year when the Transaction took place.

The LTPO had reassessed Ncell’s income tax return for the fiscal year of 2015 to 2016 and determined that based on section 57 of the ITA, Ncell’s taxable income for such fiscal year is now NPR127,827.6 million (RM4,430.4 million). Ncell responded to the Reassessment Notice on 12 January 2021 disagreeing, among other things, with the applicability of the assessment and the method used by LTPO to make the assessment.

Ncell has filed a writ petition (“**First Writ**”) against LTPO and related government agencies. On 13 January 2021, Ncell obtained an order from the SC that all decisions and proceedings in relation to the Reassessment Notice be stayed until the matter is heard by the SC. On 14 January 2021, the Tribunal also issued its procedural order recording the undertaking given by Nepal and its organs and agencies will not take any measures against Ncell in relation to the section 57 demand and the Transaction.

Notwithstanding the order from the SC, LTPO had on the same day issued a further notice (“**Demand Notice**”) under section 102 of the ITA for additional tax liability of NPR57,852.3 million (RM2,005.1 million). Ncell has filed another writ petition (“**Second Writ**”) to dispute the Demand Notice as the remedies sought in the First Writ have been rendered inapplicable by the Demand Notice. On 7 February 2021, the SC issued an interim order directing the respondents in the Second Writ not to execute the Demand Notice and not to withhold any benefits or facilities that Ncell is legally entitled to.

The hearing which was originally scheduled to take place on 2 November 2021 has been regularly postponed by the SC due to administrative reasons and is now listed for hearing on 3 May 2022.

Our Board, based on the external legal advice received, are of the view that the likelihood of probable cash outflow for the Demand Notice in relation to section 57 of the ITA is remote.

**5. DOCUMENTS AVAILABLE FOR INSPECTION**

Copies of the following documents are available for inspection at our registered office at Level 5, Corporate Headquarters, Axiata Tower, 9 Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur, Malaysia from Monday to Friday (except public holidays) from the date of this Circular up to and including the date of our forthcoming AGM:

- (i) the Constitution of our Company;
- (ii) the audited consolidated financial statements of our Company for the past two (2) financial years up to the FYE 31 December 2021;
- (iii) the material contracts referred to in section 2, Appendix II of this Circular; and
- (iv) the relevant cause papers in respect of material litigation referred to in section 4, Appendix II of this Circular.