



Commonwealth of Australia



**ASIC**

Australian Securities &  
Investments Commission

Commonwealth of Australia Gazette

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#### RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the Corporations Act and the other legislation administered by ASIC may have rights of review. ASIC has published **Practice Note 57 [PN57] Notification of rights of review** and Information Sheet [INFO 1100] **ASIC decisions – your rights** to assist you to determine whether you have a right of review. You can obtain a copy of these documents from the ASIC Digest, the ASIC website at [www.asic.gov.au](http://www.asic.gov.au) or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

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**Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraphs 283GA(1)(a), 601QA(1)(a), 741(1)(a),  
911A(2)(l), 992B(1)(a) and 1020F(1)(a) — Exemption**

**Relief for offers involving a contribution plan**

1. Under paragraph 283GA(1)(a) and 1020F(1)(a) ASIC exempts:
  - (a) a person referred to in Schedule A from:
    - (i) Parts 2L.1, 2L.2, 2L.3, 2L.4 and 2L.5; and
    - (ii) Part 7.9,where the person:
    - (iii) makes an eligible offer;
    - (iv) offers to arrange for the issue or acquisition of financial products under an eligible offer;
    - (v) issues or acquires a financial product under an eligible offer, that involves a contribution plan but does not involve the issuer or any associated body corporate offering any eligible employee of the issuer a loan or similar financial assistance for the purpose of, or in connection with, the acquisition of financial products to which the offer relates, on the conditions set out in Schedule B and for so long as the conditions are met; and
  - (b) a person (other than a person covered by paragraph (a)) from Part 7.9 where the person makes a recommendation to issue or acquire financial products under an eligible offer to which paragraph (a) relates, except where the person is aware, or ought reasonably to be aware, that any of the conditions set out in Schedule B have not been met.
2. For the avoidance of doubt, under paragraph 601QA(1)(a) ASIC exempts a person who operates a managed investment scheme only by reason of operating a contribution plan relating to an eligible offer to which paragraph (a) relates from section 601ED in relation to the operation of that managed investment scheme.

**Relief for offers involving a key employee performance plan**

3. Under paragraph 1020F(1)(a) ASIC exempts:
  - (a) a person referred to in Schedule A from Part 7.9 where the person:

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- (i) makes an eligible performance plan offer;
- (ii) offers to arrange for the issue or acquisition of financial products under an eligible performance plan offer;
- (iii) issues or acquires a financial product under an eligible performance plan offer,

that involves a key employee performance plan, on the conditions set out in Schedule C and for so long as the conditions are met; and

- (b) a person (other than a person covered by paragraph (a)) from Part 7.9 where the person makes a recommendation to acquire financial products under an eligible performance plan offer to which paragraph (a) relates, except where the person is aware, or ought reasonably to be aware, that any of the conditions set out in Schedule C have not been met.

#### **Licensing and hawking relief for offers involving a contribution plan**

4. Under paragraph 911A(2)(l) ASIC exempts a person who is exempt from Part 7.9 because of the exemption set out in paragraph 1 above (other than because the person made a recommendation to acquire financial products) from the requirement to hold an Australian financial services licence for the provision of a financial service consisting of general advice reasonably given in connection with an offer referred to in that exemption (including any general advice given in the offer document) where the offer document for the offer includes a statement to the effect that any advice given by the person in connection with the offer is general advice only, and that employees should consider obtaining their own financial product advice from an independent person who is licensed by ASIC to give such advice.
5. Under paragraph 911A(2)(l) ASIC exempts:
  - (a) the issuer; and
  - (b) any associate of the issuer,from the requirement to hold an Australian financial services licence for the provision of the following financial services:
  - (c) the provision of a custodial or depositary service in connection with an eligible offer where the provider of the service performs their duties in good faith and has sufficient resources to perform those duties; and
  - (d) dealing in a financial product in the course of providing a custodial or depositary service covered by paragraph (c); and
  - (e) dealing in a financial product in connection with an offer covered by the

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exemption set out in paragraph 1 above where any acquisition by purchase or disposal of the product (by the issuer or an associate) occurs either:

- (i) through a person who holds an Australian financial services licence authorising the holder to deal in those financial products or a dealers licence issued under the old Corporations Act authorising the holder to deal in securities; or
  - (ii) outside this jurisdiction and through a person who is licensed or otherwise authorised to deal in those financial products in the relevant place; and
- (f) dealing in an interest in a managed investment scheme that is exempt from section 601ED because of the exemption set out in paragraph 2 above.
6. Under paragraphs 741(1)(a) and 992B(1)(a) ASIC exempts a person who is exempt from Part 7.9 because of the exemption set out in paragraph 1 above from sections 736, 992A and 992AA in relation to offers made in the course of, or because of, unsolicited meetings or telephone calls reasonably held or made in connection with the offer.

#### **Licensing and hawking relief for offers involving a key employee performance plan**

7. Under paragraph 911A(2)(l) ASIC exempts a person who is exempt from Part 7.9 because of the exemption set out in paragraph 3 above (other than because the person made a recommendation to acquire financial products), from the requirement to hold an Australian financial services licence for the provision of a financial service consisting of general advice reasonably given in connection with an offer referred to in that exemption (including any general advice given in the performance plan offer document) where the performance plan offer document for the offer includes a statement to the effect that any advice given by the person in connection with the offer is general advice only, and that employees should consider obtaining their own financial product advice from an independent person who is licensed by ASIC to give such advice.
8. Under paragraph 911A(2)(l) ASIC exempts:
- (a) an issuer; and
  - (b) any associate of the issuer,

from the requirement to hold an Australian financial services licence for the provision of the following financial services:

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- (c) the provision of a custodial or depositary service in connection with an eligible performance plan offer where the provider of the service performs their duties in good faith and has sufficient resources to perform those duties; and
  - (d) dealing in a financial product in the course of providing a custodial or depositary service covered by paragraph (c); and
  - (e) dealing in a financial product in connection with an eligible performance plan offer covered by the exemption set out in paragraph 3 above where any acquisition by purchase or disposal of the product (by the issuer or an associate) occurs either:
    - (i) through a person who holds an Australian financial services licence authorising the holder to deal in those financial products or a dealers licence issued under the old Corporations Act authorising the holder to deal in securities; or
    - (ii) outside this jurisdiction and through a person who is licensed or otherwise authorised to deal in those financial products in the relevant place.
9. Under paragraphs 741(1)(a) and 992B(1)(a) ASIC exempts a person who is exempt from Part 7.9 because of the exemption set out in paragraph 3 above from sections 736, 992A and 992AA in relation to eligible performance plan offers made in the course of, or because of, unsolicited meetings or telephone calls reasonably held or made in connection with the offer.

#### **Schedule A**

Virgin Blue Holdings Limited ACN 100 686 226 and any of its related bodies corporate.

#### **Schedule B**

The following conditions apply:

1. in the case where the employee share scheme involves the on-market acquisition of fully-paid shares in the issuer that are in the same class as shares which have been quoted on the financial market operated by Australian Stock Exchange Limited for a period of less than 12 months, the person making the offer under the employee share scheme must:
  - (a) include that offer in a prospectus lodged with ASIC which complies with the requirements of the Act ("Prospectus"); and

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- (b) take reasonable steps to ensure that any eligible employee to whom the offer is made is given a copy of the Prospectus; and
2. in the case where the employee share scheme involves the on-market acquisition of fully-paid shares in the issuer that are in the same class of shares which have been quoted on the financial market operated by Australian Stock Exchange Limited for a 12 month period immediately before the offer was made without suspension for more than a total of 2 trading days during that period, the person making the offer under the employee share scheme must:
- (a) include that offer in an offer document;
- (b) take reasonable steps to ensure that any eligible employee to whom the offer is made is given a copy of the offer document; and
- (c) provide to ASIC a copy of the offer document (which need not contain details of the offer particular to the employee such as the identity or entitlement of the employee) and of each accompanying document not later than 7 days after the first provision of that material to an employee; and
3. in the case where the employee share scheme involves the on-market acquisition of shares on behalf of employees — the issuer must take reasonable steps to ensure that the number of shares acquired in respect of the offer when aggregated with:
- (a) the number of shares in the same class which would be acquired were each outstanding offer with respect to shares under an employee share scheme is accepted; and
- (b) the number of shares in the same class issued or acquired during the previous 5 years pursuant to the employee share scheme or any other employee share scheme extended only to eligible employees of the issuer;

but disregarding any offer made, or share issued or acquired by way of or as a result of:

- (c) an offer to a person situated at the time of receipt of the offer outside this jurisdiction; or
- (d) an offer that was an excluded offer or invitation within the meaning of the Corporations Law as in force before the commencement of Schedule 1 to the *Corporate Law Economic Reform Program Act 1999*; or
- (e) an offer that did not need disclosure to investors because of section 708; or

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- (f) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D; or
- (g) an offer made under a disclosure document or Product Disclosure Statement.

must not exceed 5% of the total number of issued shares in that class of the issuer as at the time of the offer; and

4. in the case where an offer of shares is made through a trust:
- (a) the trustee must hold the shares on trust for each person (a “beneficiary”) who acquires units of shares under an eligible offer; and
  - (b) the trustee must cause proper written financial records to be maintained in respect of the activities of the trust and cause those records to be audited annually and made available for inspection by the beneficiaries at an office of the trustee or a place of business of the issuer during normal business hours or such other time as is agreed with beneficiaries; and
  - (c) the trustee must ensure that each share to which a unit held by a beneficiary relates is identified in the written financial records as being held on account of that beneficiary; and
  - (d) the trustee must not levy any fees or charges for operating and administering the trust, either payable directly by the beneficiaries or out of the assets of the trust; and
  - (e) except as expressly provided by the trust deed, a beneficiary must have the capacity to authorise the trustee to sell at or above the current market price the shares to which he or she is entitled to under the deed; and
  - (f) the trustee must provide a copy of the trust deed to ASIC at the same time as a copy of the offer document is provided to ASIC in accordance with this instrument; and
  - (g) the issuer must ensure that the trust deed contains covenants binding the trustee and their agents, if any, to the effect that a beneficiary possesses substantially the same rights in respect of the shares to which the units of shares they hold relate as if they were the legal owner of the shares, including the right to:
    - (i) direct the trustee how the voting rights attaching to the shares shall be exercised, either generally or in any particular case; and
    - (ii) receive the income deriving from the shares, including dividends declared by the issuer in respect of those shares.

Note: where a document must be provided in writing it may be provided by electronic means. See s5C of the Act and s25 of the *Acts Interpretation Act 1901*.

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**Schedule C**

The following conditions apply:

1. in the case where the employee share scheme involves the acquisition, either on market or pursuant to a disclosure document, of fully-paid shares in the issuer that are in the same class as shares which are or are to be quoted on the financial market operated by Australian Stock Exchange Limited, the person making the offer under the employee share scheme must:
  - (a) include that offer in a performance plan offer document;
  - (b) take reasonable steps to ensure that any eligible employee to whom the offer is made is given a copy of the performance plan offer document;
  - (c) in the case of an offer made before or within 2 months of the date of lodgment of the IPO prospectus, take reasonable steps to ensure that any eligible employee to whom the offer is made is given, or has been given, a copy of the IPO prospectus; and
  - (d) provide to ASIC a copy of the performance plan offer document (which need not contain details of the offer particular to the employee such as the identity or entitlement of the employee) and of each accompanying document not later than 7 days after the first provision of that material to an employee; and
2. in the case where the employee share scheme involves the acquisition of shares either on market or pursuant to a disclosure document — the issuer must take reasonable steps to ensure that the number of shares acquired in respect of the offer when aggregated with:
  - (a) the number of shares in the same class which would be acquired were each outstanding offer with respect to shares under an employee share scheme is accepted; and
  - (b) the number of shares in the same class issued or acquired during the previous 5 years pursuant to the employee share scheme or any other employee share scheme extended only to eligible employees of the issuer;

but disregarding any offer made, or share issued or acquired by way of or as a result of:

- (c) an offer to a person situated at the time of receipt of the offer outside this jurisdiction; or
- (d) an offer that was an excluded offer or invitation within the meaning of the Corporations Law as in force before the commencement of



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Schedule 1 to the *Corporate Law Economic Reform Program Act 1999*;  
or

- (e) an offer that did not need disclosure to investors because of section 708;  
or
- (f) an offer that did not require the giving of a Product Disclosure Statement because of section 1012D; or
- (g) an offer made under a disclosure document or Product Disclosure Statement,

must not exceed 5% of the total number of issued shares in that class of the issuer as at the time of the offer.

Note: where a document must be provided in writing it may be provided by electronic means. See s5C of the Act and s25 of the Acts Interpretation Act 1901.

### Interpretation

In this instrument:

1. except where otherwise stated, references to provisions are to provisions of the Act;
2. an employee share scheme shall not be regarded as extended to a person other than an eligible employee only because such an employee may renounce an offer of financial products made to them under the scheme in favour of their nominee;
3. "associated body corporate" of an issuer means:
  - (a) a body corporate that is a related body corporate of the issuer; or
  - (b) a body corporate that has voting power in the issuer of not less than 20%;  
or
  - (c) a body corporate in which the issuer has voting power of not less than 20%;
4. "contribution plan" means a plan under which a participating eligible employee may save money by regular deductions from wages or salary (including through salary sacrifice arrangements) towards paying for shares acquired under an employee share scheme where the terms and conditions of the contribution plan include terms and conditions to the effect that:
  - (a) all deductions from wages or salary made in connection with participation in the contribution plan must be authorised by the employee on the same form of application which is used in respect of the offer, or on a form which is included in or accompanies the offer document;

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- (b) before transferring contributions to acquire shares, any contributions made by an employee as part of the contribution plan must be held by the issuer in trust for the employee in an account of an Australian ADI which is established and kept by the issuer only for the purpose of depositing contribution moneys and other money paid by employees for the acquisition of shares under the employee share scheme; and
  - (c) the employee may elect to discontinue their participation in the contribution plan at any time and as soon as practicable after that election is made all money deposited with the Australian ADI in relation to that employee, including any accumulated interest, must be repaid to that employee;
- 5. "current market price" means in relation to a share, the price published by the operator of the principal financial market on which the share is quoted as the final price for the previous day on which the share was traded on that financial market;
- 6. "eligible employee" means, in relation to the issuer, a person who is at the time of an offer under an employee share scheme, a full or part-time employee or director of the issuer or of an associated body corporate of the issuer;
- 7. "eligible offer" means an offer to an eligible employee to acquire on-market on behalf of the eligible employee fully-paid shares in the issuer that are in the same class as shares which have been quoted on the financial market operated by Australian Stock Exchange Limited, and which is made under the Virgin Blue Contribution (Salary Sacrifice) Plan.
- 8. "eligible performance plan offer" means an offer to an eligible employee to acquire, either on-market or pursuant to a disclosure document, fully-paid shares in the issuer that are in the same class as shares which have been quoted on the financial market operated by Australian Stock Exchange Limited, and which is made under the Virgin Blue Key Employee Performance Plan;
- 9. "financial product advice" has the meaning given by section 766B;
- 10. "general advice" has the meaning given by section 766B;
- 11. "issuer" means Virgin Blue Holdings Limited ACN 100 686 226;
- 12. "IPO" means an initial public offer of shares in the issuer;
- 13. "IPO Prospectus" means a prospectus relating to offers of shares made pursuant to the IPO;
- 14. "key employee performance plan" means a plan under which:
  - (a) the issuer may, on such terms and conditions as the issuer determines, grant certain contractual rights to nominated eligible employees pursuant

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to which the employee may require the trustee under the plan to transfer a share in the issuer after certain performance-related vesting conditions have been satisfied; and

- (b) no consideration is payable by an employee for the performance rights;
15. "offer" has a meaning affected by sections 700, 702 and 1010C;
16. "offer document" means a document setting out an offer under an employee share scheme that:
- (a) includes or is accompanied by a copy, or a summary, of the rules of the scheme under which the offer is made; and
  - (b) if a summary (rather than a copy) of the rules of the scheme is given — includes an undertaking that during the period (the "offer period") which an eligible employee may elect to participate in the scheme, the issuer will, within a reasonable period of the employee so requesting, provide the employee without charge with a copy of the rules of the scheme; and
  - (c) specifies in respect of the shares:
    - (i) the current market price in Australian dollars;
    - (ii) where the current market price is specified in a foreign currency, the Australian dollar equivalent of that price at the date of the offer; and
  - (d) includes an undertaking, and an explanation of the way in which, the issuer will, during the offer period, within a reasonable period of the employee requesting, make available to the employee:
    - (i) the current market price (or, where that price is denominated in a foreign currency, the Australian dollar equivalent of that price) of shares in the same class as those offered; and
    - (ii) where subparagraph (c)(ii) applies, the information referred to in that paragraph as updated to that date; and
  - (e) specifies:
    - (i) the Australian ADI where contributions for the purposes of the contribution plan are held;
    - (ii) the length of time they may be held; and
    - (iii) the rate of interest payable (if any) on the contributions held in the account;

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17. "old Corporations Act" has the meaning given by subsection 1410(1);
18. "performance plan offer document" means a document setting out an offer under an employee share scheme that:
- (a) includes or is accompanied by a copy, or a summary, of the rules of the scheme under which the offer is made; and
  - (b) if a summary (rather than a copy) of the rules of the scheme is given — includes an undertaking that the issuer will, within a reasonable period of the employee so requesting, provide the employee without charge with a copy of the rules of the scheme; and
  - (c) sets out information about how to access information about shares in the issuer, including:
    - (i) a statement to the effect that current information about shares in the issuer can be obtained from the Australian Stock Exchange Limited, ("ASX");
    - (ii) the internet address for the ASX; and
19. "unit" in relation to a share means a legal or equitable right or interest in the share.

Dated this 7th day of November 2003



Signed by Belisa Jong  
as a delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission  
Corporations Act 2001 — Subsection 741(1) — Exemption**

Under subsection 741(1) of the Corporations Act 2001 ("Act") the Australian Securities and Investments Commission ("ASIC") declares that Chapter 6D applies to the person specified in Schedule A in the case specified in Schedule B as if section 707 were modified or varied by omitting subsections 707(3) and (4) and substituting the following subsections:

- "(3) An offer of a body's securities for sale within 12 months after their issue needs disclosure to investors under this Part if the body issued the securities:
- (a) without disclosure to investors under this Part; and
  - (b) with the purpose of the person to whom they were issued;
    - (i) selling or transferring them; or
    - (ii) granting, issuing or transferring interests in, or options or warrants over, them;
- and section 708 does not say otherwise.
- (4) Unless the contrary is proved, a body is taken to issue securities with the purpose referred to in paragraph 3(b) if any of the securities are subsequently sold, or offered for sale, within 12 months after their issue."

**Schedule A**

Virgin Blue Holdings Limited ACN 100 686 226 ("issuer")  
and any of its related bodies corporate

**Schedule B**

The issue of ordinary shares in the issuer which:

1. are in the same class of securities that are quoted ED securities of the issuer listed on the financial market operated by Australian Stock Exchange Limited; and
2. are issued on or after 12 December 2002:
  - (a) by reason of the exercise or cancellation of options issued or granted on or about May 2002 without disclosure under subsections 708(1) and 708(12) of the Act to executive officers and employees of the issuer and any of its related bodies corporate under the Virgin Blue Executive Share Option Plan; and

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- (b) which in aggregate total no more than 0.19% of the total number of fully paid shares in the capital of the issuer as at 12 December 2003.

Dated this 11th day of November 2003



Signed by Belisa Jong  
as a delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission**  
**Corporations Act 2001 — Paragraphs 601QA(1)(a), 655A(1)(b) and 741(1)(a) —**  
**Declaration and Exemption**

1. Pursuant to paragraph 655A(1)(b) of the Corporations Act 2001 ("Act") the Australian Securities and Investments Commission ("ASIC") declares that Chapter 6 of the Act applies to Challenger Financial Services Group Limited ACN 106 842 371 ("CFSGL") in the case referred to in Schedule A as if item 7 of section 611 of the Act were modified or varied by:
  - (i) deleting the phrase "An acquisition approved previously by a resolution passed at a general meeting of the company in which the acquisition was made, if:" and replacing it with "An acquisition approved previously by a resolution passed at a general meeting of a registered scheme whose members will be issued, on a proportional basis, shares in the company in which the acquisition is made, if:";
  - (ii) deleting "and" at the end of subparagraph (ii) of paragraph (a) and substituting "or"; and
  - (iii) inserting the following subparagraph after subparagraph (ii) of paragraph (a):
    - "(iii) members of the registered scheme whose address is shown on the register at the time the votes are cast as being outside Australia or New Zealand; and".
2. Pursuant to paragraph 741(1)(a) of the Act ASIC hereby exempts CSFGL in the case referred to in paragraph 1 of Schedule B, from:
  - (i) Item 3 of section 717 of the Act to the extent that it requires a disclosure document to include or be accompanied by an application form;
  - (ii) Item 6 of section 717 of the Act to the extent that it provides that an issue of securities may only be made to a person who has used an application form distributed with the disclosure document;
  - (iii) subsection 723(1) of the Act; and
  - (iv) paragraph 734(6)(b) of the Act,on the conditions set out in Schedule C, for so long as those conditions are met.
3. Pursuant to paragraph 601QA(1)(a) of the Act, ASIC hereby exempts CPH Management Limited ACN 080 207 496 ("CPHML") from compliance with paragraph 601FC(1)(d) of the Act, to the extent that paragraph 601FC(1)(d) requires that person to treat members of the same class equally in the case set out in paragraphs 1 and 2 of Schedule B on the conditions specified in Schedule D and for as long as those conditions are met.

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**SCHEDULE A**

The acquisition by CPH Investments Management Pty Ltd ACN 092 008 172 of a relevant interest in 300,000,000 voting shares in CFSGL on the exercise of options granted as part of a proposed restructure of Challenger Financial Services Group ARSN 091 545 185 ("CFSG") as described in the Prospectus referred to in Schedule B.

**SCHEDULE B**

1. Where CFSGL lodges with ASIC on or about the date of this instrument a Prospectus ("Prospectus") which includes a notice of meeting, and which:
  - (a) invites members of CFSG ("Unitholders") to attend a meeting to be held on or about 22 December 2003 ("Meeting") to consider resolutions that would permit a restructure ("Restructure"), involving amongst other things:
    - (i) all units in CFSG (except 5 units which are to be issued to CFSGL) to be redeemed in consideration for the issue of shares in CFSGL on a proportional basis;
    - (ii) Foreign Members' units to be transferred to the transferee; and
  - (b) contains a prominent statement to the effect that Unitholders who cannot attend the Meeting on 22 December 2003 in person are encouraged to lodge proxy forms; and
2. If the Restructure is approved at the Meeting, CFSGL and CFSG implement the Restructure.

**SCHEDULE C**

1. No securities in CFSGL will be issued on the basis of the Prospectus except for those issued pursuant to the Restructure of CFSG; and
2. All notices of meeting for the Meeting sent to Unitholders are included in or accompanied by a copy of the Prospectus.

**SCHEDULE D**

1. CPHML reasonably considers that it would be in the best interests of members and not unfair to Foreign Members to transfer Foreign Members' units to the transferee;
2. Foreign Members receive by way of consideration for the transfer of their units to the transferee an amount calculated by multiplying the number of units transferred to the transferee by the average of the daily Volume Weighted Average Price for shares in CFSGL over the first ten days of trading of such shares on markets operated by the ASX;



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3. CPHML takes all reasonable steps to ensure that CFSGL pays the Foreign Members the amount referred to at paragraph 2 above of this exemption as soon as reasonably practicable after the first ten days of trading in shares in CFSGL on markets operated by the ASX.
4. The obligation of the transferee to pay Foreign Members the value of the units referred to at paragraph 2 above of this exemption is guaranteed by the Guarantor.
5. The interests of the relevant Foreign Members at the date of execution of this instrument comprise no more than 0.5% of the total number of all interests on issue in CFSG.

**Interpretation**

'ASX' means the Australian Stock Exchange

'Foreign Members' means members of CFSG that are connected to a place that is outside this jurisdiction or New Zealand

'Guarantor' means UBS Advisory and Capital Markets Australia Ltd ACN 008 582 705

'transferee' means UBS Securities Australia Ltd ACN 008 586 481

Dated this 7th day of November 2003



Signed by Therese Boumelhem  
as delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission  
Corporations Act 2001 – Paragraphs 655A(1)(b) and 673(1)(b) – Declaration**

Under paragraphs 655A(1)(b) and 673(1)(b) of the Corporations Act 2001 ("Act") the Australian Securities and Investments Commission ("ASIC") declares that Chapters 6 and 6C of the Act apply to the person named in Schedule A in the case referred to in Schedule B as if:

1. section 609 of the Act were modified or varied by adding after subsection (13):
 

"(14) A person does not have a relevant interest in securities in a body corporate merely because of an escrow agreement relating to those securities of that body corporate."; and
2. Part 6C.1 of the Act were modified or varied by adding after section 671B:
 

"671BA For the purposes of section 671B and the definition of *substantial holding* in section 9, a person has a relevant interest in securities if the person would have a relevant interest in the securities but for subsection 609(14)."

**Schedule A**

Virgin Blue Holdings Limited ACN 100 686 226 ("**Virgin Blue**")

**Schedule B**

An acquisition of a relevant interest in up to 85% of the voting shares in Virgin Blue arising as a result of escrow agreements to be entered into on or about 10 November 2003 ("**Escrow Deed**") on terms substantially in the form of the draft provided to ASIC on or about 7 November 2003, which effect is clearly and meaningfully disclosed in a prospectus to be lodged with ASIC on or about 10 November 2003 ("**IPO**"), between Credit Suisse First Boston Australia Limited ACN 007 016 300, Goldman Sachs JBWere Pty Ltd ACN 006 797 897 and each of the following:

1. Virgin Holdings SA (a company incorporated in Switzerland);
  2. Cricket SA (a company incorporated in Switzerland);
  3. Plzen Pty Limited ACN 065 905 571;
  4. CU Nominees Pty Ltd ACN 000 747 679;
- (together "**Shareholders**"); and
5. the executive officers of Virgin Blue who are offered voting shares in Virgin Blue pursuant to an executive offer contained in the prospectus for the IPO and elect to participate in the offer and are named in the substantial shareholder notice to be lodged with the Australian Stock Exchange Limited (if required),
- (together "**Executive Officers**"),

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in which each Escrow Deed in relation to:

- (a) the Shareholders imposes restrictions on the ability of each Shareholder and its related corporations to dispose of their shares in Virgin Blue for a period no longer than 180 days from the last date of allotment of Virgin Blue shares under the IPO; and
- (b) the Executive Officers imposes restrictions on the ability of each Executive Officer to dispose of their shares in Virgin Blue until 6 January 2004.

Dated this 7<sup>th</sup> day of November 2003



.....  
Signed by Ian Macdonald

as a delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraph 601QA(1)(b) — Declaration**

Pursuant to paragraph 601QA(1)(b) of the *Corporations Act 2001* (the “Act”) the Australian Securities and Investments Commission (“ASIC”) hereby declares that Chapter 5C applies to the person mentioned in Schedule A in relation to each of the registered schemes specified in Schedule B in the case set out in Schedule C as if section 501FL of the Act were modified or varied as follows:

1. delete from subsection (1) all the text after the word “it” and substitute the following text:

“must either:

  - (a) call a members’ meeting to explain its reason for wanting to retire and to enable the members to vote on a resolution (which must be an extraordinary resolution if the scheme is not listed) to choose a company to be the new responsible entity; or
  - (b) propose a related body corporate to be the new responsible entity in accordance with subsection (1A).”;
2. insert after subsection (1) the following subsection:

“(1A) The requirements for proposing a related body corporate to be the new responsible entity are as follows:

  - (a) The responsible entity must give members notice of a proposal to choose a company (the *proposed responsible entity*), which is a wholly owned subsidiary of the responsible entity’s holding company, to be the scheme’s new responsible entity.
  - (b) The notice to members must:
    - (i) set out:
      - (A) the responsible entity’s reasons for wanting to retire; and
      - (B) such information as can reasonably be expected to be material to a member in forming a view as to the choice of the proposed responsible entity; and
    - (ii) state prominently that if:
      - (A) members who together hold at least 5% of the total value of the interests held by members; or

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- (B) 100 members, who would be entitled to vote if the proposal were put as a proposed resolution to a meeting of members under paragraph (1)(a),
- ask for a vote on the choice of the proposed responsible entity by giving written notice received by the responsible entity within 21 days from the date the notice is sent, the responsible entity will either arrange a postal vote or convene a meeting to vote on a resolution for the choice of the proposed responsible entity; and
- (iii) be accompanied by a form which can be ticked to ask for a vote; and
- (iv) state prominently a reply paid address of the responsible entity to which the form may be sent.
- (c) If sufficient members ask for a vote in accordance with the notice, the responsible entity must arrange for a postal vote or, if the responsible entity chooses, convene a meeting in accordance with Part 2G.4 to vote on the choice of the proposed responsible entity as soon as possible.
- (d) If there is a postal vote:
- (i) a voting paper must be sent to each member stating a reply paid address of the responsible entity to which the voting paper may be sent;
- (ii) the responsible entity must notify the members in, or in a document accompanying, the voting paper that:
- (A) the proposed responsible entity will be chosen as the new responsible entity if at least 50% of the total votes that may be cast by members that would be eligible to vote at a meeting under paragraph (1)(a) are cast in favour of the choice; and
- (B) only votes received by the responsible entity within 28 days after the issue of the voting paper will be counted.
- (e) If a meeting is convened the resolution to choose the new responsible entity must be an extraordinary resolution if the scheme is not listed."; and

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3. insert after subsection (2), the following subsections:

“(2A) If a postal vote is arranged under paragraph (1A)(c) and at least 50% of the total votes that may be cast by members that would be eligible to vote at a meeting under paragraph (1)(a) are cast in favour of the proposed responsible entity, that entity is taken for the purposes of subsection (2) to have been chosen by a resolution of members on the last day on which postal votes may be received in order to be counted.

(2B) If:

- (a) a related body corporate is proposed to be the new responsible entity in accordance with subsection (1A); and
- (b) sufficient members do not ask for a vote to choose the entity in accordance with the notice referred to in paragraph (1A)(b); and
- (c) the entity has consented in writing to becoming the scheme’s responsible entity,

then:

- (d) as soon as practicable and in any event within 2 business days after the end of the period in which a member may ask for such a vote, the current responsible entity must lodge a notice with ASIC asking it to alter the record of the scheme’s registration to name the proposed responsible entity as the scheme’s responsible entity; and
- (e) the notice must be accompanied by a certificate from the current responsible entity that it reasonably considers that the appointment of the proposed responsible entity would be in the best interests of members with a summary of the responsible entity’s reasons as to why this is the case; and
- (f) unless ASIC reasonably believes that the appointment of the proposed responsible entity would not be in the best interests of members, ASIC must comply with the notice as soon as practicable after the notice and summary are lodged.”.

#### **Schedule A**

Assure Services and Technology Limited ABN 59 001 803 489, the responsible entity of the registered schemes specified in Schedule B (the “Schemes”)

#### **Schedule B**

Assure Select Global Value Equities Portfolio ARSN 094 860 072

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Assure Select Global Core Equities Portfolio ARSN 094 863 171

Assure Select Global Active Equities Portfolio ARSN 096 373 205

Wholesale Access Facility (WAF) ARSN 096 034 294

### Schedule C

The proposed retirement of the responsible entity of the Wholesale Access Facility ARSN 096 034 294 and its proposed replacement by NMMT Limited ABN 42 058 835 573 with its consent not later than December 31, 2003.

The proposed retirement of the responsible entity of Assure Select Global Value Equities Portfolio ARSN 094 860 072, Assure Select Global Core Equities Portfolio ARSN 094 863 171, and Assure Select Global Active Equities Portfolio ARSN 096 373 205 and its proposed replacement by National Mutual Funds Management Limited ABN 32 006 787 720 with its consent not later than December 31, 2003.

Dated: 24 September 2003.



Signed by Catherine L. Matterson  
as delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission**  
**Corporations Act 2001 — Paragraphs 601QA(1)(a), 911A(2)(l), 992B(1)(a) and**  
**1020F(1)(a) — Exemption**

1. Under paragraph 601QA(1)(a) of the *Corporations Act 2001* (“the Act”), the Australian Securities and Investments Commission (“ASIC”) hereby exempts the persons referred to in Schedule A from section 601ED of the Act in the case referred to in Schedule B on the conditions set out in Schedule C.
2. Under paragraphs 911A(2)(l), 992B(1)(a) and 1020F(1)(a) of the Act ASIC hereby exempts the persons referred to in Schedule A in the case referred to in Schedule B on the conditions set out in Schedule C from:
  - (a) sections 992A, 992AA and 1017F of the Act; and
  - (b) the requirement to hold an Australian financial services licence for the provision of financial services by that person in relation to dealing in interests in a managed investment scheme of the kind and offered on the basis referred to in Schedule B.
3. Under paragraphs 992B(1)(a) of the Act ASIC hereby exempts a person (other than a person referred to in Schedule A) in the case of an offer to sell an interest in a managed investment scheme referred to in Schedule B and offered on a basis that appears to comply with Schedule C, from sections 992A and 992AA of the Act.

**SCHEDULE A — WHO IS EXEMPT**

Any person who operates the scheme specified in Schedule B (scheme) including Marcus Coast Investments Pty Ltd (ACN 081 307 744) as trustee for The Costello Family Trust, and the following persons (promoters):

- (a) TW Hedley (Investments) Pty Ltd (ACN 010 566 711); and
- (b) any other person offering an interest in the scheme for issue, other than a person who is aware that any disclosure statement required to be given to a person under this instrument or any Product Disclosure Statement required to be given to a person under the Act in relation to the scheme, was not given or was given but did not comply with this instrument or the Act as the case may be.

**SCHEDULE B — SCHEMES EXEMPTED**

Operating a managed investment scheme which involves an owner (investor) of real property (strata unit), in the investor's discretion, making their strata unit available for use by a person (operator) as part of a serviced apartment, hotel, motel or resort complex known as Amaroo at Trinity CTS1083 and located at 92 Moore Street, Trinity Beach developed in accordance with an approval of a local government organisation that was given to ASIC on 7 November 2003 and in relation to which on 1 March 2000 there was no person who had bought or agreed to buy a strata unit and who, before agreeing to buy, had been offered an interest in the scheme, where:

- (a) the sale of the strata unit is not and was not conditional on participation in the serviced strata scheme;
- (b) each investor and the operator may withdraw from participation in the scheme on



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no more than 90 days notice and an investor that withdraws will not be bound after that notice expires to allow use of their strata unit except for occupation of the strata unit:

- (i) by a person other than the operator or an associate of the operator; and
  - (ii) under an agreement that the operator made with that person before the notice of withdrawal was given;
- (c) each investor may, if the investor withdraws from participation in the scheme, appoint another person to manage their strata unit;
- (d) the operator is licensed in relation to the conduct of the letting services under the law of a State or Territory or is an Australian financial services licensee;
- (e) no payment is liable to be made by an investor to participate in the scheme other than:
- (i) payment of money to buy the strata unit; and
  - (ii) one or more payments of the investor's reasonable proportion of the operator's fees and expenses with respect to the management of the scheme where each such payment:
    - (A) relates to a period of no more than 3 months; and
    - (B) is reasonably commensurate with the work done or to be done, or the expenses incurred or likely to be incurred (as the case may be), by the operator during that period;
- (f) there is no obligation on any person to ensure that other owners of strata units agree to participate in the scheme; and
- (g) the serviced apartment, hotel, motel or resort complex is operated in accordance with a written agreement entered into or to be entered into between the operator and each investor which agreement includes provisions as specified in Schedule E.

#### SCHEDULE C — CONDITIONS ON OPERATORS AND PROMOTERS

1. The operator must ensure that any part of the scheme property held in cash or on deposit with an Australian ADI or another financial institution must be held on trust for the members in a trust account and subject to audit as to whether the moneys have been dealt with in accordance with the terms of the trust by a registered company auditor at least annually;
2. Each promoter that is involved in making an offer of interests in the scheme for issue must:
  - (a) not engage in any misleading or deceptive conduct or conduct that is likely to mislead or deceive in connection with those offers;
  - (b) during the transition period (within the meaning of subsection 1438(3) of the Act) ensure that a disclosure statement complying with Schedule D is given to each person to whom an offer is made at or before the making of the offer; and
  - (c) during the transition period (within the meaning of subsection 1438(3) of the Act) ensure that the disclosure statement is signed and dated by the operator or, if the operator is not knowingly concerned in the offer, by a promoter; and

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3. The operator must comply with the provisions specified in Schedule E which are included in the agreement referred to in paragraph (g) of Schedule B.

#### SCHEDULE D — THE DISCLOSURE STATEMENT

1. The disclosure statement must:
- (a) describe the main features of the interests in the scheme;
  - (b) set out the main terms and conditions of the offer; and
  - (c) provide answers to the questions set out in paragraph 2 of this Schedule (the questions need not be set out, and the answers can be provided in any order or format),  
sufficiently to enable a typical investor in those interests to make an informed decision whether to become a member of the scheme, having regard to every matter which is material to such a decision that is known to any person who authorised or caused the issue of the disclosure statement.
2. The questions are:
- (a) What is being offered?
    - (i) How are the investor's property rights affected by holding an interest in the scheme?
    - (ii) What key rights will investors have in relation to the use of their strata unit by the operator?
    - (iii) What sort of serviced apartment, hotel, motel or resort complex is being operated under the scheme? How will it be operated?
    - (iv) What are the key terms of any lease, licence or rights that investors are to confer on the operator in relation to the operation of the scheme?
    - (v) Does the operator own or have rights in relation to any property that may adversely affect:
      - (A) how the scheme would operate if the operator were changed; or
      - (B) the amount investors are likely to receive for use of their strata unit if the property ceases to be available (for whatever reason),  
and, if so, what are those rights? How could the adverse effect happen?
  - (b) What are the risks and returns of the investment?
    - (i) How, in general terms, will the operation of the serviced apartment, hotel, motel or resort complex generate returns for investors?
    - (ii) When and how are these returns to be calculated and made available to investors?
    - (iii) Are investors in the scheme guaranteed or promised that they will receive a particular rate of return from the scheme? If so:
      - (A) what are the conditions for receiving the benefits of this guarantee or promise;
      - (B) what (if any) are the circumstances in which the person providing the guarantee or promise may be unable to

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- honour it;
- (C) what is the financial position of the person giving the guarantee or promise; and
  - (D) on what basis do investors receive returns once the guarantee or promise expires?
- (iv) If no particular rate of return is guaranteed or promised:
    - (A) is the operator aiming to achieve a particular return;
    - (B) can investors expect any particular return; or
    - (C) are returns from the scheme uncertain?
  - (v) If returns from the scheme may vary from what is aimed for or expected, or are otherwise uncertain, what are the main factors which will affect the level of return? If occupancy rates will affect the returns what are the main factors that will affect occupancy rates?
  - (vi) Do investors have potential liability to pay moneys in relation to the scheme or their ownership of a strata unit in any circumstances? If so, what are these liabilities and what main factors will affect the amount of these liabilities? For example, how will any repairs, refurbishment or replacement of any part of the serviced apartment, hotel, motel or resort complex and its furniture and fittings be paid for?
  - (vii) Is there a suggested minimum period of time that an investor's investment should remain in the scheme? If so, why is that period of time suggested? What, if any, are the kinds of qualifications on that suggestion?
- (c) What are the fees, charges, expenses and taxes associated with the scheme?
    - (i) What fees, charges, expenses or taxes, if any, may be payable by an investor if they join the scheme?
    - (ii) What fees, charges, expenses or taxes, if any, may be payable by an investor if they withdraw from the scheme?
    - (iii) What other fees, charges, expenses or taxes may be deducted from the assets or income of the scheme or otherwise borne by investors?
    - (iv) What general kinds of tax are likely to be payable on an investor's returns on investment in the scheme?
  - (d) Who is the operator?
    - (i) If the operator signs the disclosure statement, who is it and what are its credentials in operating hotels, motels, resorts or serviced apartment complexes (including details of its principal activities and relevant experience)?
    - (ii) If the operator does not sign the disclosure statement, how, and on what basis, will the operator be selected to undertake the operation of the scheme?
    - (iii) If the operator signs the disclosure statement and the operator is to engage a person to operate the complex on its behalf, what credentials will that person have to operate the hotel, motel, resort or serviced apartment complex?

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- (iv) What are the custodial arrangements for holding the money of the scheme including money held for distribution to members and to meet expenses of the scheme?
  - (e) When can investments be withdrawn and transferred?
    - (i) When and how can an investor withdraw from the scheme?
    - (ii) Can the interest in the scheme be transferred and, if so, in what circumstances? What legal requirements apply?
  - (f) What information can be obtained?
    - (i) How can the entity signing the disclosure statement be contacted?
    - (ii) Is there any particular information available to a prospective or existing investor on request made to that entity? If so, how can that information be obtained?
    - (iii) When and how is the operator to report to an investor in the scheme on the operations of the scheme (including the scheme's performance)?
3. The disclosure statement must also include a prominent statement to the effect that a person should consider whether to consult:
- (a) an investment adviser who is either an Australian financial services licensee or an authorised representative of an Australian financial services licensee;
  - (b) a taxation adviser; and
  - (c) a lawyer,
- before making a decision to become a member of the scheme and if the disclosure statement is given to a person that does not own and has not agreed to buy a strata unit to which the scheme relates, also before signing any contract to buy a strata unit on the basis that the person will become a member.

#### SCHEDULE E — PROCEDURES FOR TRANSFERRING MANAGEMENT RIGHTS

1. *Transfer of management rights*
  - (a) If a majority of scheme members advise the operator in writing that they wish to terminate the operator's engagement, the operator must within 9 months transfer the management rights to a person that is chosen by the operator that has not been involved in the operation (including promotion) of the scheme and is not controlled by a person that has been involved in the operation (including promotion) of the scheme.
  - (b) If an operator fails to complete that transfer within the 9 month period, the operator must cause the transfer of the management rights to a replacement operator named in a written notice given by a majority of scheme members, at a price specified in the notice.
  - (c) A transfer referred to in paragraphs (a) or (b) must be done as soon as practicable, but if there is a body corporate for the real property to which the scheme relates, there must be a reasonable time for members of the body corporate to consider whether to make a decision referred to in paragraph 2(b) unless the body corporate has consented to the transfer.
2. *Consent of body corporate to new care-taking arrangements*

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- (a) If an operator receives a notice under paragraph 1(b) of this Schedule, the operator must advise all body corporate members of the name of the person to whom the transfer is to be made.
- (b) Unless the body corporate has consented to the transfer, an operator does not have to transfer the management rights to the person named in the notice described in paragraph 1(b) of this Schedule if a majority of body corporate members state in writing to the operator that the person should not be engaged by the body corporate to perform care-taking functions.
- (c) If a majority of body corporate members make a decision referred to in paragraph 2(b) of this Schedule, a majority of scheme members may then at any time name a replacement operator by a written notice, to whom the operator must transfer the management rights at a price specified in the notice and the notice will be taken to be given in accordance with paragraph 1(b) of this Schedule.
- (d) This paragraph 2 does not apply if the body corporate or a majority of body corporate members agree in writing to the transfer to the person named in a notice under paragraph 1(b) or 2(c) of this Schedule before that notice is given to the operator.

### 3. *Price payable on transfer*

The price scheme members specify in a notice under paragraph 1(b) of this Schedule must be one of the following:

- (a) the average of two valuations of the management rights by independent qualified valuers nominated by the Australian Property Institute (or another relevant independent professional body approved by ASIC); or
- (b) the highest bona fide bid for the management rights (excluding a bid by the operator or its associates) at an auction of which at least 60 days' notice had been given; or
- (c) the highest bona fide amount tendered (excluding any tender by the operator or its associates) for the management rights following reasonable efforts to market the property for at least 60 days.

### 4. *Voting*

- (a) In determining if there is a majority of scheme members or body corporate members, the operator and its associates and any person nominated as a replacement operator and associates of that person must not be counted.
- (b) For scheme members, a majority is based on their entitlement to vote at body corporate meetings if there is a body corporate for the property to which the scheme relates, and otherwise each member shall have one vote.
- (c) For body corporate members, a majority is based on their entitlement to vote at body corporate meetings.
- (d) A scheme member or a body corporate member makes a decision by signing a document that sets out the decision.

### 5. *Costs*

- (a) Any member may arrange a valuation or auction of, or may market, the management rights before or after the expiration of the 9 month period referred to in paragraph 1(a) of the Schedule for the purposes of determining a price to be specified in a notice under paragraph 1(b) of this Schedule.

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- (b) If a member incurs any reasonable valuation, auction or marketing costs under paragraph 5(a) of this Schedule that member is entitled to be reimbursed out of the price payable by any person nominated by the members as transferee of the management rights when the price is paid to the operator.

6. *Assistance*

The operator must give reasonable assistance to enable the transferee to operate the resort, hotel, motel or serviced apartment complex including making available information concerning any prospective bookings.

7. *Definitions*

In this Schedule:

“scheme members” means investors in the scheme excluding the operator and its associates;

“management rights” means all real or personal property (including contractual rights) held by the operator or any of its associates that facilitates the operation of the scheme; and

“transfer” in relation to management rights means to assign or transfer the management rights or to cause another person to become the holder of those rights or rights substantially the same as those rights.

**Interpretation**

In this instrument:

1. “financial services licensee” means:
  - (a) a financial services licensee within the meaning of the Act; and
  - (b) a person who, on 11 March 2002, was the holder of a dealers licence within the meaning of the old Corporations Act (as defined in subsection 1410(1) of the Act), until the earlier of:
    - (i) if ASIC revokes the person's dealers licence — the date of that revocation; or
    - (ii) 11 March 2004; and
2. “offer” is to be interpreted in accordance with subsection 1010C(2) of the Act.

Dated this 13<sup>th</sup> day of November 2003



Signed by Greg Heaton  
as a delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission  
Corporations Act 2001 – Paragraph 669(1)(b) – Declaration**

Under paragraph 669(1)(b) of the Corporations Act 2001 (“Act”), the Australian Securities and Investments Commission (“ASIC”) hereby varies the declaration specified in Schedule A by deleting the words “8 months” where appearing and replacing them with the words “9 months”.

**Schedule A**

The declaration contained in ASIC instrument number 03/0780 dated 4 September 2003, applicable to Burns, Philp and Company Limited ACN 000 000 359 and BPC1 Pty Limited ACN 101 665 918 (each “the 90% holder”), which modified paragraph 664AA(b) of the Act and related to the 90% holder seeking to compulsorily acquire the remaining ordinary shares in Defiance Mills Pty Limited ACN 009 963 688.

Dated this 24th day of October 2003



.....  
Signed by Rachel Howitt  
as a delegate of ASIC



ASIC 03 / 1001

Australian Securities & Investments Commission

**Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraphs 655A(1)(b) and 673(1)(b) — Declaration**

Pursuant to paragraphs 655A(1)(b) and 673(1)(b) of the Corporations Act 2001 (the "Act") the Australian Securities and Investments Commission ("ASIC") declares that Chapters 6 and 6C of the Act apply to the person named in Schedule A in the case referred to in Schedule B as if:

1. section 609 of the Act were modified or varied by adding after subsection (10):
 

“(11) A company does not have a relevant interest in securities merely because it applies restrictions on the disposal of the securities by the holder”; and
2. Part 6C.1 of the Act were modified or varied by adding after section 671B:
 

“671BA For the purposes of section 671B and the definition of *substantial holding* in section 9, a person has a relevant interest in securities if the person would have a relevant interest in the securities but for subsection 609(11)”.

**SCHEDULE A**

Pearl Healthcare Limited ACN 009 259 189 ("Pearl").

**SCHEDULE B**

An acquisition of an interest in Pearl arising as the result of the entry into escrow extension agreements between:

1. Pearl; and
2. any of the following security holders:

Buckhutt Nominees Pty Ltd ACN 005 365 480

Honeyco Pty Ltd ACN 052 000 674

Mauro D'Andrea



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Noris D'Andrea

Ganton Nominees Pty Ltd ABN 53 009 185 835

Darew Nominees Pty Ltd ABN 24 008 521 435

Ceramica Pty Ltd ABN 57 050 109 898

Troy Warwick

Roberta Warwick

Peter Ghossein

Sharon Ghossein

Abdullhamid Moussa

Ibtisam Moussa

Telopia Nominees Pty Ltd ACN 008 841 585

Dental Services (NSW) Pty Ltd ABN 34 067 204 808

Kinkuna Pty Ltd ACN 006 435 507

Ian Looney Pty Ltd ACN 006 435 490

Leenme Dental Pty Ltd ACN 005 819 241

Mark Clarke

Precision Gold & Ceramics ACN 010 549 498  
Dental Laboratory Pty Ltd

Menor Holdings Pty Ltd ABN 66 002 971 557

Southern Ceramics Pty Ltd ABN 11 009 526 667

Vital Ceramics Pty Ltd ABN 17 002 127 620

Remlock Nominees Pty Ltd ABN 12 008 949 595

Wingate Nominees Pty Ltd ACN 008 042 439

replacing the 12-month ASX-imposed escrow sale restriction which ends on 29 November 2003; that:

- (a) restrict disposal of, but not voting in the securities of Pearl;
- (b) terminate on 29 November 2004;
- (c) allow the Pearl security holders to accept into a takeover bid where:
  - (i) holders of at least half of the bid class shares that are not subject to the escrow agreements to which the offer under the bid relates have accepted; and
  - (ii) the escrow agreements require that the shares be returned to escrow if the bid does not become unconditional;
- (d) allow the securities the subject of the escrow agreements to be transferred or cancelled as part of a merger by scheme of arrangement; and

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(e) are substantially in the form provided to ASIC on 17 November 2003.

Dated this 18th day of November 2003



Signed by Allan Bulman  
as a delegate of the Australian Securities and Investments Commission



ASIC 03 / 1002

Australian Securities & Investments Commission

**Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraphs 655A(1)(b) and 673(1)(b) — Declaration**

Pursuant to paragraphs 655A(1)(b) and 673(1)(b) of the Corporations Act 2001 (the "Act") the Australian Securities and Investments Commission ("ASIC") hereby revokes instrument 03/0981 dated 13 November 2003 and declares that Chapters 6 and 6C of the Act apply to the persons named in Schedule A in the case referred to in Schedule B as if:

1. section 609 of the Act were modified or varied by adding after subsection (10):
 

“(11) An underwriter or lead manager does not have a relevant interest in securities merely because it applies restrictions on the disposal of the securities by the holder”; and
2. Part 6C.1 of the Act were modified or varied by adding after section 671B:
 

“671BA For the purposes of section 671B and the definition of *substantial holding* in section 9, a person has a relevant interest in securities if the person would have a relevant interest in the securities but for subsection 609(11)”.

**SCHEDULE A**

Burdett Buckridge Young Limited ACN 006 707 777 ("BBY") and Mr Tony Davis (or other person nominated by BBY and approved by Breathe Group Limited ACN 008 082 737 ("Breathe")) in the capacity of nominated representative of BBY for the purpose of administering the voluntary escrow arrangements.

**SCHEDULE B**

An acquisition of an interest in Breathe arising as the result of the entry into escrow agreements between:

1. BBY and Mr Tony Davis (or other person nominated by BBY and approved by Breathe) in the capacity of nominated representative of BBY for the purpose of administering the voluntary escrow arrangements; and
2. any of the following security holders and involving the total number of shares set out below:

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Artal Services NV	20,215,674
Bishopswood Holdings Limited	5,178,801*
BRS Telecom (Holding) SPRL	19,966,075
CSFB (UNW) IEW SPRL	16,002,971
CSFB (UNW) Co-Investors SPRL	5,816,104
Garnet Investments Limited	15,145,496*
Yorkton & Company Limited	10,096,997
Lost Ark Nominees Pty Limited	8,330,032
Southern Mile SA	5,869,674
<b>TOTAL</b>	<b>106,621,824</b>

\* Certain shares may be transferred from Garnet Investments Limited to Bishopswood Holdings Limited. If transferred these shares will still remain subject to the escrow restrictions.

arising from and in connection with the agreement dated 13 November 2003 for the acquisition of all of the issued shares in Unwired Australia Pty Ltd ACN 094 107 589 ("Unwired") by Breathe; that:

- (a) restrict disposal of, but not voting in the securities of Breathe;
- (b) terminate no later than one year after the parties enter into the escrow agreements;
- (c) allow the security holders to accept into a takeover bid where:
  - (i) holders of at least half of the bid class shares that are not subject to the escrow agreements to which the offer under the bid relates have accepted; and
  - (ii) the escrow agreements require that the shares be returned to escrow if the bid does not become unconditional;
- (d) allow the securities the subject of the escrow agreements to be transferred or cancelled as part of a merger by scheme of arrangement or by share buyback; and
- (e) are substantially in the form provided to ASIC on 6 November 2003.

Dated this 20th day of November 2003



Signed by Sarala Miranda Fitzgerald  
as a delegate of the Australian Securities and Investments Commission

Corporations Act 2001  
Subsection 164(3)

Notice is hereby given that ASIC will alter the registration details of the following companies 1 month after the publication of this notice, unless an order by a court or Administration Appeals Tribunal prevents it from doing so.

**DISTRONICS AUSTRALIA LIMITED** ACN 008 091 030 will change to a proprietary company limited by shares. The new name will be DISTRONICS AUSTRALIA PTY LTD ACN 008 091 030.

**RENAISSANCE CAPITAL LTD** ACN 091 514 233 will change to a proprietary company limited by shares. The new name will be RENAISSANCE CAPITAL PTY LIMITED ACN 091 514 233.

**NEW MILLENIUM PUBLICATIONS PTY. LTD.** ACN 007 016 202 will change to a public company limited by shares. The new name will be NEW MILLENIUM PUBLICATIONS LIMITED ACN 007 016 202.

**ZURICH CAPITAL MARKETS ASIA LIMITED** ACN 095 545 887 will change to a proprietary company limited by shares. The new name will be ZURICH CAPITAL MARKETS ASIA PTY LIMITED ACN 095 545 887.