

Australian Securities & Investments Commission

form **A104**

Supplementary pages to imaged document

The attachment to this cover sheet forms part of a document lodged and imaged

Original document details

corporation name LCL CAPITAL PM LTD
 A.C.N. or A.R.B.N. 144 973 786
 A.S.C. document number 028494108
 document title NOTICE OF ENFORCEABLE UNDERTAKING
 date lodged (d/m/y) 13/05/2014

Supplementary pages details

reason for attachment

VARIATION TO THE EU

describe attachment

The variation documents required to be added on to the existing EU

Authorising officer

officer's name(print) SAM LUY
 officer's title Analyst

VARIATION OF ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

*LCL Capital Pty Ltd
ACN 144 973 786*

*Suite S223, 3 Oracle Boulevard
Broadbeach QLD 4218*

1. DEFINITIONS

- 1.1 Defined terms used in this variation of undertaking have the same meaning as those in the undertakings given by LCL Capital Pty Ltd ACN 144 973 786 (**LCL Capital**) on 30 April 2014 (**Undertakings**), a copy of which are attached as Annexure 1 to this document.

2. BACKGROUND

- 2.1 On 23 April 2014, LCL Capital offered the Undertakings to ASIC, and on 30 April 2014, ASIC accepted the Undertakings.
- 2.2 On 7 July 2015, ASIC received what was to be the third and final Independent Reviewer's Statement under the Undertakings. In that Independent Reviewer's Statement the Independent reviewer identified non-compliance with clause 27.2 in relation to the Financial Product Advice of one of the three Authorised Representatives who had provided Financial Product Advice under LCL Capital's AFS Licence during the period 1 January 2015 to 30 June 2015. The effect of this finding is that in accordance with clause 29.4 of the Undertakings, the Review Period is to be extended in six (6) monthly periods, until such time as the non-compliance is resolved satisfactorily.
- 2.4 On 22 July 2015, LCL Capital requested that ASIC consider limiting the scope of any Subsequent Audits, as required by the Undertakings, to only those Authorised Representatives who were identified as providing non-compliant Financial Product Advice in the third Independent Reviewer's Statement.
- 2.5 ASIC has agreed to the requested variation of the Undertakings on the basis that it does not alter the intent of the Undertakings and because there has been a material change in the circumstances which led to the Undertakings being given, in that:

- 2.5.1 The Independent Reviewer's Statements have progressively indicated improvements to the Financial Product Advice generally provided by LCL Capital;
- 2.5.2 The Independent Reviewer's Statements have progressively indicated improvements to LCL Capital's compliance with its obligations under section 912A of the Corporations Act; and
- 2.5.3 Since the Undertakings, LCL Capital has engaged the Independent Reviewer to provide additional compliance assistance. They have assisted LCL Capital to implement change to its compliance mechanisms and the Financial Product Advice provided under its AFS licence.

3.0 VARIATION OF UNDERTAKINGS

- 3.1 Under section 93AA of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), LCL Capital has offered, and ASIC has agreed to accept, the following variations to the Undertakings:

- 3.1.1 Insert the following defined term into the Undertaking; and

Extended Review Period means such further period as may be caused by any extension required by clauses 29.4 or 29.6(a).

- 3.1.2 Insert the following clauses at clauses 29.5 and 29.6 of the Undertakings:

- 29.5 Where an Extended Review Period comes into effect, the Independent Reviewer shall conduct each Audit within the Extended Review Period in accordance with clauses 27 to 29; however the first Audit within the Extended Review Period can be limited to only those Authorised Representatives where non-compliance was identified in the third Independent Reviewer's Statement.
- 29.6 For the avoidance of doubt, where an Audit within the Extended Review Period identifies further non-compliance with clause 27.2:
 - a) the Review Period is to be extended in six (6) monthly periods until such time as the non-compliance is resolved satisfactorily;
 - b) the Independent Reviewer shall conduct each Audit in the Extended Review Period in accordance with clauses 27 to 29; and
 - b) Audits subsequent to the first Audit within the Extended Review Period are to be conducted for all Authorised Representatives of LCL Capital, in accordance with clauses 27 to 29.

- 3.2 No other aspects of the Undertakings are changed in any way.

4.0 ACKNOWLEDGMENTS

4.1 LCL Capital acknowledges that ASIC:

- (a) may issue a media release on execution of this variation of undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this variation of undertaking; and
- (c) will make this variation of undertaking available for public inspection.


4.2 LCL Capital acknowledges that this variation of undertaking in no way derogates from the rights and remedies available to ASIC or any other person or entity arising from any conduct described in this variation of undertaking or the Undertakings.

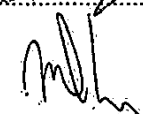
4.3 LCL Capital acknowledges that ASIC's acceptance of this variation of undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any or all of the conduct described in this variation of undertaking or the Undertakings, or any contravention arising from future conduct.

4.4 LCL Capital acknowledges that the acceptance by ASIC of the variations in section 3 above modifies the Undertakings but does not affect the validity of the Undertakings and does not prejudice ASIC's ability to take any action in relation to the Undertakings.

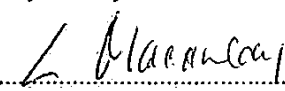
4.6 LCL Capital acknowledges that this variation of undertaking has no operative force until accepted by ASIC.

THE COMMON SEAL of THE)
COMPANY was affixed in accordance with)
the Corporations Act 2001 in the presence of:)


..... Director


..... Director/Company Secretary

Accepted by the Australian Securities and Investments Commission under the ASIC Act section 93AA by its duly authorised delegate:


.....

~~Joanna Bird~~ Louise Macaulay
Delegate of the Australian Securities and Investments Commission

Dated 25/9/15