

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 1989****Undertaking to the Australian Securities and Investments Commission given for  
the purposes of section 93 AA**

by

**HP JDV Limited  
ABN 67 009 136 029****1. BACKGROUND****Commentary**

- 1.1. HP JDV Limited ("HP JDV") is the holder of Security Dealers Licence number 14250, under the Corporations Law ("the Law").
- 1.2. During the course of the last twelve months, the Australian Securities and Investments Commission ("ASIC") and the Australian Stock Exchange Limited ("ASX") have identified issues giving rise to concerns by both organizations relating to the adequacy of HP JDV's record keeping practices and procedures, compliance supervision arrangements and on-going training for its proper authority holders. The issues of training and supervision are not unique to HP JDV and have broader industry implications.
- 1.3. In June 2000, ASIC commenced a review of surveillance activities of HP JDV proper authority holders that were currently, or, during the prior two years had been the subjects of investigations by ASIC and ASX and administrative proceedings by ASIC. The review was triggered by concerns of ASIC and ASX relating to the number of HP JDV advisers who were the subject of such investigations or proceedings. As a consequence of that review, regulatory concerns were identified by ASIC about HP JDV's internal compliance systems including, but not limited to, supervision and training of staff, and structure of and reporting lines for the compliance function.
- 1.4. In September 2000, after completing its preliminary review, ASIC advised HP JDV of its concerns and sought information and documents from HP JDV. HP JDV elected to provide such information and documents on a voluntary basis and has co-operated fully with ASIC and ASX in seeking to resolve these concerns. ASIC reviewed compliance supervisory systems and procedures, registers, log books, trading records and client files maintained both by HP JDV and its proper authority holders. ASIC also interviewed HP JDV senior executives and management and proper authority holders of HP JDV in Western Australia.

## Compliance

- 1.5 While HP JDV does not agree with all aspects of ASIC's concerns as set out below, it acknowledges them and has agreed to put in place a number of compliance measures (including the specific requirements set out in the Undertakings below) for the purposes of addressing the issues identified by ASIC and ensuring that it meets its legal and regulatory obligations to comply with the Law, the Corporations Regulations (the "Regulations"), the ASIC Act (the "Act"), Licence Conditions attached to Licence 14250 (the "Conditions") and the ASX Business Rules (the "BR").
- 1.6 HP JDV has informed ASIC that it had reviewed and initiated action to address the issues to which clauses 1.7 and 1.8 refer, prior to receiving ASIC's written notification of concerns.

## Supervision

- 1.7 ASIC is of the view that compliance supervisory procedures currently in place are inadequate to ensure compliance with the Law, the Regulations, the Act, the Conditions, the BR, and conduct and disclosure requirements with regard to its proper authority holders, designated trading representatives and other staff.

## Training

- 1.8 ASIC is of the view that on-going training procedures currently in place are inadequate to ensure that HP JDV proper authority holders are adequately trained with respect to their legal obligations pursuant to the Law, the Regulations, the Act, the Conditions, the BR, and the consequences of any breaches, as required by the Conditions.

## Summary

- 1.9 Pursuant to section 786 of the Law, ASIC may, at any time, subject to a hearing, impose conditions and restrictions on a security dealer's licence in addition to those prescribed by the Law.
- 1.10 HP JDV has offered and ASIC has accepted the commitments in this Enforceable Undertaking as an alternative to the actions referred to in clause 1.9.

## 2. UNDERTAKINGS

- 2.1 HP JDV will, as soon as practicable, engage a senior executive to assume the functional position of head of compliance, reporting directly to the Chief Executive Officer.
- 2.2 HP JDV will, by 31 December 2000, engage an external independent compliance consultant (the "Compliance Consultant"), whose appointment and terms of reference are to be approved by ASIC, to review, assess, make recommendations and report ("the Initial Report") in writing by 15 February 2001 to HP JDV and ASIC on the changes to HP JDV's compliance systems and training programs which HP JDV is implementing, is proposing to implement or which the Consultant deems to be necessary.
- 2.3 The compliance assessment will include, but not be limited to, the identification and recommendations for further changes with respect to compliance to ensure a level of full compliance with the requirements of the Law, the Regulations, the Act, the Conditions and the BR, including but not limited to such issues as:
- a) structure, status, autonomy, independence and reporting lines of the compliance function;
  - b) supervisory procedures to ensure that representatives obtain relevant personal information from customers to form a reasonable basis to make recommendations;
  - c) supervisory procedures to ensure that should representatives not obtain relevant personal information from customers, clear warnings are given and documented about the limitation of representatives to give personal securities advice and the customers' obligations to form their own view about the suitability of the investment;
  - d) supervisory procedure to ensure disclosures of relevant interests;
  - e) supervisory procedures for opening new client accounts including verification of identity;
  - f) supervisory procedures to ensure that staff trading complies with the Law, the Regulations, the Act, the Conditions, the BR and internal firm policies;
  - g) supervisory procedures with respect to the activities of all designated trading representatives;
  - h) record-keeping;
  - i) operational procedures to ensure the segregation of back and front office functions;
  - j) internal and external complaints resolution procedures; and

- k) initial and on-going training of representatives relating to their obligations with respect to the Law, the Regulations, the Act, the Conditions, the BR and internal firm policies; assessment of representatives' understanding of that training; and remedial training in the event that a representative is found to have breached an obligation.
- 2.4 HP JDV will agree with ASIC a timetable to implement any recommendations made by the Compliance Consultant in the Initial Report, such implementation to occur no later than 15 June 2001 in order to achieve full compliance with the Law, the Regulations, the Act, the Conditions and the BR.
  - 2.5 HP JDV will further instruct the Compliance Consultant to review, assess and report in writing to both HP JDV and ASIC on HP JDV's compliance and training programs as at 30 November 2001 (the "Interim Report") and 30 May 2002 (the "Final Report") (collectively the "Reports") such reports to include an assessment of the matters referred to in clause 2.3, the terms of reference of the Compliance Consultant, and of the action taken by HP JDV to remedy any deficiencies identified in the Initial Report or in any of the reports referred to in this clause.
  - 2.6 The Chief Executive Officer of HP JDV, after reporting to the HP JDV Board will provide assurances to ASIC on 31 March 2001, 30 July 2001, 15 January 2002 and 15 July 2002 as to the action taken by HP JDV to comply with the provisions of the Undertaking and the Initial, Interim and Final Reports, respectively.
  - 2.7 HP JDV agrees to provide to the ASX on a "not for release" basis a copy of all documents provided to ASIC pursuant to these Undertakings.

### 3. ACKNOWLEDGMENTS

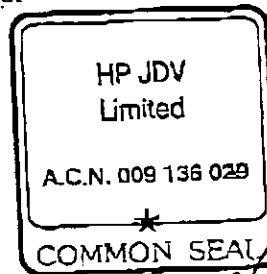
- 3.1 HP JDV acknowledges that ASIC:
  - a) may from time to time publicly refer to this Undertaking;
  - b) may issue a media release on execution of this Undertaking referring to its terms and the concerns of ASIC which led to its execution; and
  - c) will place a copy of the executed Undertaking on a Public Register.
- 3.2 HP JDV acknowledges that ASIC's acceptance of this Undertaking does not affect ASIC's power to investigate a contravention arising from future conduct.

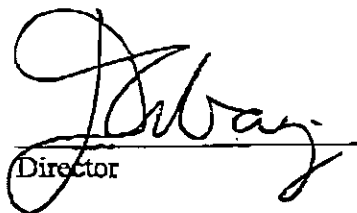
3.3 HP JDV acknowledges that this Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Undertaking.

3.4 HP JDV acknowledges that this Undertaking has no operative force until accepted by ASIC.

EXECUTED on the \_\_\_\_\_ day of December 2000.

The Common Seal of HP JDV Limited )  
(ABN 67 009 136 029) was duly affixed to this )  
Undertaking on 14<sup>th</sup> December 2000 )  
in the presence of: )



  
Director

  
Director/Secretary

**ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION PURSUANT TO ASIC ACT, SECTION 93AA BY ITS DULY  
AUTHORISED DELEGATE:**

  
Shane Tregillis, National Director Policy & Markets Regulation

15<sup>th</sup> December 2000.