

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:

COMMONWEALTH SECURITIES LTD

ABN 60 067 254 399

AFSL 238814

AND

AUSTRALIAN INVESTMENT EXCHANGE LTD

ABN 71 076 515 930

AFSL 241400

1. DEFINITIONS

- 1.1 Defined terms used in this variation of undertaking have the same meaning as those in the undertakings given by the Commonwealth Securities Group on 17 December 2013 (Undertaking), a copy of which are attached as an Annexure to this document.

2. BACKGROUND

- 2.1 On 17 December 2013 the Commonwealth Securities Group offered the Undertaking to ASIC, and on 17 December 2013 ASIC accepted the Undertaking.
- 2.2 On 4 November 2014 the Commonwealth Securities Group and ASIC discussed the scope of additional monthly reports the subject of this variation.
- 2.3 ASIC has agreed to the variation of the Undertaking for the purposes of providing the additional assurances and monthly progress reports contemplated in this variation.

3. VARIATION OF UNDERTAKINGS

3.1 Under s93AA of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), the Commonwealth Securities Group offered, and ASIC has agreed to accept, the following variations to the Undertaking:

3.1.1 Insert the following paragraphs after paragraph 5.16 of the Undertaking:

5.16.1 The Commonwealth Securities Group must, by 19 December 2014, or such later date as agreed between ASIC and Commonwealth Securities Group, engage the Independent Expert engaged under the Undertaking, to undertake ongoing review of (Further Reviews), and provide monthly progress reports (Monthly Progress Reports) to ASIC and the Commonwealth Securities Group on the progress of implementation of the Remediation Plan, including observations relating to the likelihood of completing remediation actions by their due dates, and an assessment of whether the Remediation Plan addresses the recommendations and findings of the EY report dated 10 June 2014.

5.16.2 Commonwealth Securities Group must ensure that the terms of engagement of the Independent Expert for the Further Reviews and Monthly Progress Reports:

- (a) are approved by ASIC, in writing, prior to agreeing those terms with the Independent Expert;
- (b) include a requirement that Monthly Progress Reports be given to ASIC and the Commonwealth Securities Group on the 20th day of each month or a later day of each month agreed from time to time between ASIC and Commonwealth Securities Group (acknowledging that the first such Monthly Progress Report for December has already been provided), up to and including July 2015 or the month that is one month after the final deliverable due date under the Remediation Plan, whichever is later;
- (c) include a requirement that a final report (Final Report) be provided to ASIC and the Commonwealth Securities Group on or before 4 September 2015, reporting on the design and operating effectiveness of controls systems and processes implemented under the Remediation Plan and an assessment of whether the Remediation Plan has addressed the recommendations and findings of the EY report dated 10 June 2014;
- (d) do not prevent ASIC staff from meeting with the Independent Expert independently of Commonwealth Securities Group and obtaining information from the Independent Expert about the engagement;
- (e) include a term that the Independent Expert must notify Commonwealth Securities Group and ASIC immediately if the Independent Expert or the Independent Expert's staff become aware of information that adversely affects their ability to exercise objective and impartial judgment in relation to the engagement. This includes, but is not limited to, circumstances where the Independent Expert or the Independent Expert's staff:
 - (i) become aware of any conduct of Commonwealth Securities Group, or its past or present directors, officers or employees involving action to exert undue influence on the Independent Expert or staff of the Independent Expert; or

- (ii) become aware of past or current circumstances, the existence of which places the Independent Expert in breach, or potential breach, of the independence requirements in paragraph 5.4 (c) of the Undertaking.

5.16.3 Commonwealth Securities Group must:

- (a) permit the Independent Expert, to the extent that is reasonable having regard to the requirements of the Undertaking as varied, to have access to their books, to interview employees, contractors, agents and/or consultants, to attend project group and working group meetings, and to consult with ASIC and disclose to ASIC any further information obtained by the Independent Expert, related to the Undertaking as varied, in the course of carrying out the Further Review and produce the Monthly Reports;
- (b) give the Independent Expert any information, document or explanation reasonably requested by the Independent Expert in relation to any matter in any way connected with the work of the Independent Expert under the Undertaking as varied; and
- (c) otherwise reasonably assist the Independent Expert in conducting the Further Reviews and producing the Monthly Reports.

5.16.4 The terms of engagement of the Independent Expert to conduct the Further Reviews and produce the Monthly Reports may only be varied by Commonwealth Securities Group with the prior written agreement of ASIC.

5.16.5 All remuneration and costs associated with the Independent Expert, the Further Reviews and the Monthly Reports must be borne by Commonwealth Securities Group.

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

4. ACKNOWLEDGMENTS

4.1 The Commonwealth Securities Group acknowledges that ASIC:

- (a) may issue a media release on execution of this variation referring to its terms and to the reasons for its execution;
- (b) may from time to time publicly refer to this variation and to the Commonwealth Securities Group's compliance or non-compliance with the Undertaking as varied including referring to any documents and/or information to be provided to ASIC under the Undertaking as varied; and
- (c) may from time to time publicly refer to this variation; and
- (d) will make this variation available for public inspection.

4.2 The Commonwealth Securities Group acknowledges that this variation 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 or the Undertaking.

4.3 The Commonwealth Securities Group acknowledges that ASIC's acceptance of this variation 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 or the Undertaking or any contravention arising from future conduct.

4.4 The Commonwealth Securities Group acknowledges that in relation to the Final Report, ASIC:

- (a) may issue a media release referring to the content of the Final Report;
- (b) may from time to time publicly refer to the Final Report; and
- (c) will make available for public inspection a summary of the text of the Final Report, or a copy of the text of a statement that refers to the content of the Final Report.

4.5 ASIC acknowledges that in relation to any media release referring to the content of the Final Report, public reference which refers to the content of the Final Report, text of the Final Report or statement referred to in sub paragraph 4.4 (c) ASIC will delete, remove or not refer to any information:

- (a) that Commonwealth Securities Group has asked it not to release; and
- (b) that ASIC is satisfied:
 - (i) would or could reasonably be expected to unreasonably affect the business, commercial or financial affairs of Commonwealth Securities Group and in ASIC's view would be unreasonable to release because the release of the information would or could be expected to unreasonably affect the business, commercial or financial affairs of Commonwealth Securities Group otherwise than is contemplated by the Undertaking, as varied; or
 - (ii) otherwise should not be disclosed because it would be against the public interest to do so; or
 - (iii) consists of personal information of an individual.

4.6 The Commonwealth Securities Group acknowledges that the acceptance by ASIC of the variation in section 3 above modifies the Undertaking but does not affect the validity of the Undertaking and does not prejudice ASIC's ability to take any action in relation to the Undertaking.

4.7 The Commonwealth Securities Group acknowledges that this variation has no operative force until accepted by ASIC.

4.8 ASIC acknowledges that Commonwealth Securities Group has fully cooperated and worked constructively with ASIC in relation to this variation.

Executed by COMMONWEALTH SECURITIES LTD (ABN 60 067 254 399) in accordance with section 127(1) of the Corporations Act:


Signature of Director

PAUL RAYSON
Print name


Signature of Company Secretary

MARIA KARAGIANNIS
Print name

Executed by AUSTRALIAN INVESTMENT EXCHANGE LTD (ABN 71 076 515 930) in accordance with section 127(1) of the Corporations Act:


Signature of Director

PAUL RAYSON
Print name


Signature of Company Secretary

MARIA KARAGIANNIS
Print name

Accepted by the Australian Securities and Investments Commission under s93AA of the ASIC Act by its duly authorised delegate:



.....
Signature ASIC Delegate
Delegate of Australian Securities and Investments Commission

Greg Yanco
.....
Print name

19/12/14
.....
Date

