



## PART 7.2A OF THE CORPORATIONS REGULATIONS 2001 INFRINGEMENT NOTICE

To:

**Patersons Securities Limited**  
**Level 23, Exchange Plaza**  
**2 The Esplanade**  
**PERTH, WA 6000**

**TAKE NOTICE:** The Australian Securities and Investments Commission (*ASIC*) gives this infringement notice to Patersons Securities Limited ("**Patersons**") under regulation 7.2A.04 of the *Corporations Regulations 2001* (the *Regulations*). To comply with this notice Patersons must:

- (a) pay a penalty to ASIC, on behalf of the Commonwealth, in the sum of **\$25,000**; and
- (b) provide training to its Designated Trading Representatives (DTRs).

This infringement notice is given on 2 September 2011

The unique code for this notice as required by paragraph 7.2A.06(b) of the Regulations is **MDP 15288/11**

### **Alleged contravention and penalties, sanctions**

Patersons was an ASX Trading Participant at the relevant time and was therefore an entity required by subsection 798H(1) of the *Corporations Act 2001* (the *Act*) to comply with the market integrity rules at that time.

Patersons is alleged to have contravened subsection 798H(1) of the Act by reason of contravening market integrity rule 6.6.1 of the ASIC Market Integrity Rules (ASX Market) 2010 ("**MIR 6.6.1**"), which provides:

*"A Trading Participant must not effect a Special Crossing of any Cash Market Products (excluding Warrants) of an Issuer, on behalf of that Issuer during the term of a buy-back offer conducted On-Market by that Issuer."*

On 17 February 2011 at or about 16:15:59, Patersons is alleged to have contravened MIR 6.6.1 by engaging in the following conduct in respect of the fully paid ordinary shares of Cape Lambert Resources Limited ("**CFE**"):

Patersons effected a Special Crossing of 1,955,000 CFE on behalf of the Issuer of CFE, Cape Lambert Resources Limited (“**Cape Lambert**”). CFE is a Cash Market Product. The Special Crossing was effected as part of a buy-back of CFE which was being conducted On-Market by Cape Lambert.

It should be noted that the purpose of MIR 6.6.1 appears to be to:

- (a) ensure fairness and transparency during the course of an on-market buy-back; and
- (b) minimise the risk that a market participant will cause or be involved its client company effecting a capital reduction in contravention of section 256D of the Act.

A capital reduction resulting from the cancellation of shares bought back on-market is prohibited under that section unless the buy-back results from an order made in the ordinary course of trading on a relevant market: see section 257B(6). A buy-back by way of a special crossing is not of this kind.

### **Maximum pecuniary penalty that a Court could order**

The maximum pecuniary penalty that a Court could order Patersons to pay for contravening the market integrity rule that Patersons is alleged to have contravened is **\$100,000**.

### **Penalty, remedy, sanction or undertaking under Infringement Notice**

The penalty payable for the alleged contravention of subsection 798H(1) of the Act and therefore the total penalty that Patersons must pay to the Commonwealth is **\$25,000**.

The penalty is payable to ASIC on behalf of the Commonwealth. Payment is made by bank cheque to the order of the “Australian Securities and Investments Commission”.

Patersons must undertake or institute remedial measures (the *remedies*) in relation to the alleged contravention of subsection 798H(1) of the Act as follows:

- (a) Prior to or during the compliance period referred to in the following section, Patersons must provide training to its DTRs on the provisions of Chapter 6 of the ASIC Market Integrity Rules (ASX Market) 2010. Evidence that that training has taken place must be provided to ASIC during the compliance period.

### **Compliance with the Infringement Notice**

Patersons may choose not to comply with this infringement notice, but if Patersons does not comply, civil proceedings may be brought against Patersons in relation to the alleged contravention.

To comply with this infringement notice, Patersons must pay the penalty and institute the remedies within the compliance period. The compliance period:

- (a) starts on the day on which the infringement notice is given to Patersons; and
- (b) ends 27 days after the day on which the infringement notice is given to Patersons; unless an application is made for its extension.

Patersons may apply to ASIC for an extension of time to comply with this notice under regulation 7.2A.09 of the Regulations. If Patersons does so, and the application is granted, the compliance period ends at the end of the further period allowed.

If Patersons applies for a further period of time in which to comply with this notice, and the application is refused, the compliance period ends on the later of:

- (a) 28 days after the day on which the infringement notice was given to the recipient; and
- (b) 7 days after the notice of refusal is given to the recipient.

Patersons may apply to ASIC for withdrawal of this notice under regulation 7.2A.11 of the Regulations. If Patersons does so, and the application is refused, the compliance period ends 28 days after the notice of refusal is given to Patersons.

### **Effect of issue and compliance with the Infringement Notice**

The effects of compliance with this infringement notice are:

- (a) any liability of Patersons to the Commonwealth for the alleged contravention of subsection 798H(1) of the Act is discharged; and
- (b) no civil or criminal proceedings may be brought or continued by the Commonwealth against Patersons for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(1) of the Act; and
- (c) no administrative action may be taken by ASIC under section 914A, 915B, 915C or 920A of the Act against Patersons for the conduct specified in the infringement notice as being the conduct that made up the alleged contravention of subsection 798H(1) of the Act; and
- (d) Patersons is not taken to have admitted guilt or liability in relation to the alleged contravention; and
- (e) Patersons is not taken to have contravened subsection 798H(1) of the Act.

### **Publication**

ASIC may publish details of this infringement notice under regulation 7.2A.15 of the Regulations.



### **Susan Humphreys**

Counsel to the Markets Disciplinary Panel

with the authority of a Division of the Australian Securities and Investments Commission

Dated : 2 September 2011.