



ASIC
Australian Securities &
Investments Commission

Commonwealth of Australia Gazette
No. A12/19, Tuesday 19 March 2019

Published by ASIC

ASIC Gazette

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RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the *Corporations Act 2001* and the other legislation administered by ASIC may have rights of review. ASIC has published Regulatory Guide 57 *Notification of rights of review* (RG57) and Information Sheet *ASIC decisions – your rights* (INFO 9) 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 or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

ISSN 1445-6060 (Online version)
ISSN 1445-6079 (CD-ROM version)

Available from www.asic.gov.au
Email gazette.publisher@asic.gov.au

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**Australian Securities and Investments Commission
Corporations Act 2001 — Subsection 655A(1) – Exemption and Declaration**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under subsection 655A(1) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0178.

Commencement

3. This instrument commences on 8 March 2019.

Exemption

4. ASIC exempts the following persons from section 606 of the Act:
 - (a) CD Capital Natural Resources Fund III L.P., a limited partnership registered in the Cayman Islands with registered number DM-80426 (*CD Capital*); and
 - (b) Washington H. Soul Pattinson and Company Limited ACN 000 002 728 (*Soul Pattinson*).

Declaration

5. Chapter 6 of the Act applies to Soul Pattinson and CD Capital as if item 9 of the table in section 611 were modified or varied by inserting at the end of the item:

“In determining a person’s voting power in a company 6 months before an acquisition for the purposes of paragraph (b), disregard any relevant interests a person or their associate had in voting shares in the company at that time which were acquired or arose as a result of, or in connection with, any relevant agreement relating to a proposed compromise or arrangement under Part 5.1 between the company and its members in respect of which each of the following are satisfied:

- (c) the compromise or arrangement was proposed in accordance with the Scheme Implementation Agreement (as defined in ASIC Instrument 19-0178); and
- (d) ASIC has provided an exemption from a provision of this Chapter under section 655A with respect to the acquisition of any relevant interest in securities resulting from entry into the Transaction Documents (as defined in ASIC Instrument 19-0178)."

Where this instrument applies

6. The exemption in paragraph 4 of this instrument applies to an acquisition of a relevant interest in ordinary shares in Verdant Minerals Limited ACN 122 131 622 (*Verdant*), which arises solely as a result of the entry by Soul Pattinson and CD Capital (together, the *Joint Acquirers*) into the Transaction Documents dated on or around 11 March 2019 for the purpose of enabling CD Capital to pursue the Scheme, where:
 - (a) the terms of the Transaction Documents and the Scheme Implementation Agreement are the same, in all material respects, as those set out in the draft Transaction Documents provided to ASIC at 1.45pm on 8 March 2019; and
 - (b) immediately prior to entry into the Transaction Documents:
 - (i) CD Capital has a relevant interest in 0% of the issued shares in Verdant; and
 - (ii) Soul Pattinson has a relevant interest of 33.43% of the issued voting shares in Verdant.
7. The declaration in paragraph 5 of this instrument applies to an acquisition of a relevant interest in securities in Verdant by a Joint Acquirer within 6 months of the later of:
 - (a) the date any Transaction Document (including any Transaction Document as subsequently amended) terminates or is terminated; and
 - (b) the date that any relevant agreement relating to the Scheme that affects a Joint Acquirer's voting power in Verdant ceases to affect the Joint Acquirer's voting power.

Conditions

8. The exemption in paragraph 4 of this instrument is subject to the following conditions:

- (a) the Joint Acquirers must immediately terminate each Transaction Document, and all other relevant agreements entered into by any of the Joint Acquirers or their respective associates of which they are aware that affects a Joint Acquirer's voting power in Verdant and relates to the Scheme, if the Scheme does not, or will not, proceed (including because a condition precedent to the Scheme has not been, or cannot be, satisfied or waived);
- (b) the Joint Acquirers must immediately notify ASIC of, and on request provide ASIC with:
 - (i) any amendment or variation to the Transaction Documents or the Scheme Implementation Agreement; and
 - (ii) any other relevant agreement entered into by a Joint Acquirer or their associate of which they are aware that affects a Joint Acquirer's voting power in Verdant and relates to the Scheme;
- (c) CD Capital must use its best endeavours to have Verdant engage an independent expert to prepare a report on whether:
 - (i) the Scheme is in the best interests of the holders of ordinary shares in Verdant (other than Soul Pattinson and its related bodies corporate); and
 - (ii) the acquisition of Verdant by the Joint Acquirers is fair to holders of ordinary shares in Verdant (other than Soul Pattinson and its related bodies corporate);
- (d) the Joint Acquirers must not, and must ensure that each of their associates do not, vote any shares in Verdant in which they have a relevant interest at any meeting to approve the Scheme;
- (e) following the execution of the Transaction Documents:
 - (i) CD Capital will give a substantial holding notice in accordance with section 671B of the Act, specifying its voting power in Verdant following execution of the Transaction Documents; and
 - (ii) CD Capital must attach a copy of the Deed of Irrevocable Undertaking and Shareholder Agreement to its substantial holding notice; and
- (f) if any person that is not a Joint Acquirer or an associate of a Joint Acquirer (*New Associate*) becomes an associate of a Joint Acquirer during the period from the date of this instrument until the date the relevant Joint Acquirer

ceases to have voting power in Verdant that is affected by any relevant agreement relating to the Scheme, the Joint Acquirer must take all reasonable steps to ensure that the New Associate does not acquire relevant interests in securities of Verdant in reliance on item 9 of the table in section 611 that the New Associate would not be able to acquire if the Joint Acquirer and/or its associates' voting power in Verdant had, at all relevant times, excluded any voting power arising as a result of, or in connection with, any relevant agreement relating to the Scheme.

Definitions

9. In this instrument:

Deed of Irrevocable Undertaking means a deed that is in the same terms, in all material respects, as those set out in the draft deed of irrevocable undertaking to be provided by Soul Pattinson in relation to its shares in Verdant, provided to ASIC by email at 1.45pm on 8 March 2019.

Scheme Implementation Agreement means a written agreement between CD Capital and Verdant that is in the same terms, in all material respects, as those set out in the draft scheme implementation agreement in relation to the Scheme, provided to ASIC by email at 1.45pm on 8 March 2019.

Shareholder Agreement means a written agreement between Verdant, Soul Pattinson and CD Capital that is in the same terms, in all material respects, as those set out in the draft shareholder agreement in relation to Verdant, provided to ASIC by email at 1.45pm on 8 March 2019.

Scheme means a proposed arrangement between Verdant and the holders of ordinary shares in Verdant (excluding Soul Pattinson and its related bodies corporate) conducted in accordance with Part 5.1 of the Act.

Transaction Documents means:

- (a) the Deed of Irrevocable Undertaking; and
- (b) the Shareholder Agreement.

Dated this 8 March 2019



Signed by Will Robertson
as a delegate of the Australian Securities and Investments Commission

19-0179

**Australian Securities and Investments Commission
Corporations Act 2001 – Paragraphs 601QA(1)(a), 911A(2)(l) and 1020F(1)(a) –
Exemptions**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraphs 601QA(1)(a), 911A(2)(l) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0179.

Commencement

3. This instrument commences upon gazettal.

Exemptions

4. KPL, KPC and the Sale Agent do not have to comply with:
 - (a) section 601ED of the Act in relation to the KPL Scheme Sale Facility;
 - (b) divisions 2 to 5 (inclusive) of Part 7.9 of the Act in relation to an interest in the KPL Scheme Sale Facility;
 - (c) the requirements to hold an Australian financial services licence for the provision of the following financial services:
 - (i) dealing in an interest in the KPL Scheme Sale Facility; and
 - (ii) the provision of general advice in relation to an interest in the KPL Scheme Sale Facility; and
 - (d) division 5A of Part 7.9 of the Act, to the extent KPL, KPC or the Sale Agent engages in either or both of the following:
 - (i) invites Ineligible KPL Shareholders to make offers to sell KPL Shares for the purpose of the KPL Scheme Sale Facility; or
 - (ii) offers to purchase KPL Shares from Ineligible KPL Shareholders for the purpose of the KPL Scheme Sale Facility.
5. KPL, KPC, and the Sale Agent are exempt from:
 - (a) the requirement to hold an Australian financial services licence for the provision or giving of financial product advice; and

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- (b) complying with Division 5A of Part 7.9 of the Act.

Where this instrument applies

- 6. The exemption in paragraph 4 apply in relation to the KPL Scheme Sale Facility where that facility satisfies all of the following:

- (a) the financial products that may be sold through the KPL Scheme Sale Facility are KPC Shares, where those KPC Shares will be admitted to quotation on the licensed market operated by ASX and/or POMS0X; and
- (b) under the terms of the KPL Scheme Sale Facility:
 - (i) the KPC Shares of the Ineligible KPL Shareholders to be sold through the KPL Scheme Sale Facility are pooled;
 - (ii) the Sale Agent seeks to sell the KPC Shares in the ordinary course of trading on the licensed market operated by ASX and/or POMS0X;
 - (iii) the proceeds of the sale net of expenses (to the extent (if any) that they are not met by KPL or KPC) are distributed to the Ineligible KPL Shareholders; and
 - (iv) each Ineligible KPL Shareholder is paid their proportion (if any) of the proceeds of sale as soon as reasonably practicable and, in any event, within 8 weeks after the Implementation Date (as defined in the KPL Scheme Booklet).

- 7. The exemption in paragraph 5 applies:

- (a) in relation to the exemption at paragraph 5(a) of this instrument, where KPL or the Sale Agent provides or gives financial product advice to holders of KPL shares where that advice:
 - (i) is general advice;
 - (ii) is provided in connection with the KPL Scheme; and
 - (iii) is contained in a document that is an explanatory statement (however described) issued in relation to the KPL Scheme, where the statement has been prepared because it is required by or under the relevant laws of Papua New Guinea; and
- (b) in relation to the exemption at paragraph 5(b) of this instrument, where either or both of the following occur:
 - (i) unsolicited offers to purchase ordinary shares in KPL are made to KPL shareholders pursuant to the KPL Scheme; or

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- (ii) unsolicited invitations are made to KPL shareholders to make offers to sell ordinary shares in KPL pursuant to the KPL Scheme.

Conditions

8. The KPL Scheme Booklet must contain the following statements and information:

- (a) information about any expenses relating to the sale of the KPC Shares that will be paid by the Ineligible KPL Shareholders;
- (b) a statement that the market price of KPC Shares is subject to change from time to time;
- (c) information about how to obtain up-to-date information on the market price of KPC Shares;
- (d) information about how the proceeds of sale of the KPC Shares sold through the KPL Scheme Sale Facility will be allocated between Ineligible KPL Shareholders;
- (e) information about any other significant characteristics or features of the KPL Scheme Sale Facility or of the rights and obligations of persons who participate in the KPL Scheme Sale Facility; and
- (f) a statement that the amount of money received by an Ineligible KPL Shareholder for a KPC Share that is sold through the KPL Scheme Sale Facility may be more or less than the actual price that is received by the Sale Agent for that KPC Share.

Interpretation

9. In this instrument:

ASX means ASX Limited ACN 008 624 691;

financial product advice has the meaning given by subsection 766B(1) of the Act ;

general advice has the meaning given by subsection 766B(4) of the Act;

Ineligible KPL Shareholder means a KPL Shareholder as at the record date for determining entitlements to consideration under the KPL Scheme, who is not eligible to be issued KPC Shares under the terms of the KPL Scheme having regard to the location of their registered address as shown in the KPL members register;

KPL means Kina Petroleum Limited, a body incorporate incorporated under the *Companies Act 1997* of Papua New Guinea (ARBN 151 201 704);

KPL Scheme means a compromise or arrangement between KPL and holders of its ordinary shares regulated by the relevant laws of Papua New Guinea, pursuant to

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which KPC will acquire all of the issued shares in KPL, and is in substantially the same form as announced to ASX Limited ACN 008 624 691 on 1 March 2019;

KPL Scheme Booklet means the explanatory statement sent or to be sent to KPL Shareholders in connection with the KPL Scheme;

KPL Scheme Sale Facility means a facility provided in connection with the KPL Scheme under which the Sale Agent will sell KPC Shares that would otherwise have been issued as consideration to the Ineligible KPL Shareholders under the KPL Scheme, with the proceeds of such sales net of expenses (to the extent (if any) that they are not met by KPL) being remitted to Ineligible KPL Shareholders;

KPL Share means a fully paid ordinary share in the issued capital of KPL;

KPL Shareholder means a shareholder in KPL;

KPC means Kina Petroleum Corporation, a body corporate incorporated under the law of the British Virgin Islands (registration number 1892389);

KPC Share means an ordinary share in the issued capital of KPC;

POMSoX means the Port Moresby Stock Exchange; and

Sale Agent means the entity or entities appointed, or to be appointed, as sale agent under the KPL Scheme Sale Facility and all persons who carry out such entity's, or such entities', obligations under the KPL Scheme Sale Facility.

Dated this 11th day of March 2019



Signed by Waverley Duong
as a delegate of the Australian Securities and Investments Commission

19-0180

**Australian Securities and Investments Commission
Corporations Act 2001 – Paragraph 741(1)(b) – Declarations**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 741(1)(b) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0180.

Commencement

3. This instrument commences on the date it is signed.

Declarations

4. Chapter 6D of the Act applies to KPC as if the definition of "continuously quoted securities" in section 9 of the Act, as modified by ASIC Corporations (Sale Offers: Securities Issued on Conversion of Convertible Notes) Instrument 2016/82 and ASIC Corporations (Disregarding Technical Relief) Instrument 2016/76, were omitted and replaced with the following:

"continuously quoted securities are securities that:

- (a) are in a class of securities that:
 - (i) were issued following the approval of an arrangement (including an arrangement which is not regulated by this Act) between a foreign company ("subsidiary") and its members under which the subsidiary became a wholly-owned subsidiary of the issuer ("issuer"); and
 - (ii) were quoted ED securities at all times in the 3 months before the date of the prospectus, Product Disclosure Statement, or notice given under paragraph 708A(12C)(e) or 1012DA(12C)(e), and a period during which the subsidiary's securities were quoted on a prescribed financial market without suspension (disregarding the suspension of quotation in connection with the implementation of the arrangement referred to in subparagraph (i)) may be included in the calculation of the 3 month period in respect of the issuer's securities mentioned in this subparagraph (ii); and

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- (b) are securities of the issuer or subsidiary in relation to which the following subparagraphs are satisfied during the shorter of the period during which the class of securities were quoted, and the period of 12 months before the date of the prospectus, Product Disclosure Statement or notice given under paragraph 708A(12C)(e) or 1012DA(12C)(e):
 - (i) no exemption under section 111AS or 111AT, or modification under section 111AV, covered the issuer or subsidiary, or any person as director or auditor of the issuer or subsidiary; and
 - (ii) other than ASIC relief instruments 19-0180 and 19-0181, no exemption under paragraph 741(1)(a), or declaration under paragraph 741(1)(b), relating to a provision that is a disclosing entity provision for the purposes of Division 4 of Part 1.2A covered the issuer or subsidiary, or any person as director or auditor of the issuer or subsidiary; and
 - (iii) no order under section 340 or 341 covered the issuer or subsidiary, or any person as director or auditor of the issuer or subsidiary;

and for these purposes, securities are not in different classes merely because of a temporary difference in the dividend, or distribution rights, attaching to the securities or because different amounts have been paid up on the securities."

5. Chapter 6D applies to KPC and a holder of KPC Shares as if subsection 708A(5) of the Act, as modified by ASIC Corporations (Sale Offers By Controllers) Instrument 2016/81 and ASIC Corporations (Disregarding Technical Relief) Instrument 2016/73, were omitted, and replaced with the following:

"The sale offer does not need disclosure to investors under this Part if:

- (a) the relevant securities are in a class of securities that:
 - (i) were issued following the approval of an arrangement (including an arrangement which is not regulated by this Act) between a foreign company ("subsidiary") and its members under which the subsidiary became a wholly-owned subsidiary of the body; and
 - (ii) were quoted securities at all times in the following period:
 - A. if this section applies because of subsection (1) – 3 months before the day on which the relevant securities were issued, and, a period during which the subsidiary's securities were quoted securities may be included in the calculation of the 3

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month period in respect of the body's securities mentioned in this subparagraph (A); or

- B. if this section applies because of subsection (1A) – 3 months before the day on which the relevant securities were sold by the controller, and, a period during which the subsidiary's securities were quoted securities may be included in the calculation of the 3 month period in respect of the body's securities mentioned in this subparagraph (B); and
- (b) trading in the class of securities of the body or subsidiary on a prescribed financial market on which they were quoted was not suspended for more than a total of 5 days during:
- (i) if this section applies because of subsection (1) – the shorter of the period during which the class of securities were quoted, and the period of 12 months before the day on which the relevant securities were issued (disregarding the suspension of quotation on a prescribed financial market in connection with the implementation of the arrangement referred to in subparagraph (a)(i)); or
- (ii) if this section applies because of subsection (1A) – the shorter of the period during which the class of securities were quoted, and the period of 12 months before the day on which the relevant securities were sold by the controller (disregarding the suspension of quotation on a prescribed financial market in connection with the implementation of the arrangement referred to in subparagraph (a)(i)); and
- (c) no exemption under section 111AS or 111AT covered the body or subsidiary, or any person as director or auditor of the body or subsidiary during the relevant period referred to in paragraph (b); and
- (d) no order under section 340 or 341 covered the body or subsidiary, or any person as director or auditor of the body or subsidiary during the relevant period referred to in paragraph (b); and
- (e) either:
- (i) if this section applies because of subsection (1), the body or subsidiary gives the relevant market operator for the body or subsidiary a notice that complies with subsection (6) before the sale offer is made; or
- (ii) if this section applies because of subsection (1A), both the body or subsidiary, and the controller, give the relevant market operator for the

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body or subsidiary a notice that complies with subsection (6) before the sale offer is made."

6. Chapter 6D applies to KPC and a holder of KPC Shares as if subsection 708A(12A), as inserted by ASIC Corporations (Non-Traditional Rights Issues) Instrument 2016/84, were omitted, and replaced with the following:

"The sale offer does not need disclosure to investors under this Part if:

(a) the relevant securities were issued under a rights issue or a related issue; and

(b) the relevant securities are in a class of securities that:

(i) were issued following the approval of an arrangement (including an arrangement which is not regulated by this Act) between a foreign company ("subsidiary") and its members under which the subsidiary became a wholly-owned subsidiary of the body; and

(ii) were quoted securities at all times in the 3 months before the day on which the relevant securities were issued, and, a period during which the subsidiary's securities were quoted securities may be included in the calculation of the 3 month period in respect of the body's securities mentioned in this subsection; and

(c) the rights issue or the related issue did not need disclosure to investors under this Part."

Where this declaration applies

7. This declaration applies in relation to any offer of KPC Shares for issue or sale in the 15 months following the quotation on the financial market operated by the ASX Limited ACN 008 624 691 of KPC Shares issued as part of the KPL Scheme.

Interpretation

8. In this instrument:

KPL means Kina Petroleum Limited, a body corporate incorporated under the *Companies Act 1997* of Papua New Guinea (ARBN 151 201 704);

KPL Scheme means a compromise or arrangement between KPL and holders of its ordinary shares regulated by the *Companies Act 1997* of Papua New Guinea, pursuant to which KPC will acquire all of the issued shares in KPL, and is in

19-0180

substantially the same form as announced to ASX Limited ACN 008 624 691 on 1 March 2019;

KPC means Kina Petroleum Corporation, a body corporate incorporated under the law of the British Virgin Islands (registration number 1892389);

KPC Share means an ordinary share in the issued capital of KPC; and

offer has the meaning affected by section 700 of the Act.

Dated this 11th day of March 2019

A handwritten signature in black ink, appearing to read 'WDg', is positioned above the signature block.

Signed by Waverley Duong
as a delegate of the Australian Securities and Investments Commission

19-0181

**Australian Securities and Investments Commission
Corporations Act 2001 – Paragraph 741(1)(a) – Exemption**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 741(1)(a) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0181.

Commencement

3. This instrument commences on the date it is signed.

Exemption

4. Kina Petroleum Corporation, a body corporate incorporated under the law of the British Virgin Islands (registration number 1892389) (*KPC*), does not have to comply with Parts 6D.2 and 6D.3 of the Act.

Where this exemption applies

5. This exemption applies where KPC:
 - (a) offers to issue KPC Shares under or in connection with the KPL Scheme (including, without limitation, under the KPL Scheme Sale Facility), where:
 - (i) the KPL Scheme Booklet contains a statement to the effect that the KPL Scheme Booklet contains all information that the directors of KPL consider to be material to the making of a decision by a member of KPL whether or not to agree to the KPL Scheme (being information that is within the knowledge of the directors of KPL and has not been previously disclosed to KPL Shareholders); and
 - (ii) the KPL Scheme will only become effective if it is approved by a resolution of KPL Shareholders passed by 75% of the votes cast on the resolution;
 - (b) offers to sell KPC Shares which were issued, or are to be issued, under or in connection with the KPL Scheme (including, without limitation, under the KPL Scheme Sale Facility).

19-0181

Interpretation

In this instrument:

Ineligible KPL Shareholder means a KPL Shareholder as at the record date for determining entitlements to consideration under the KPL Scheme, who is not eligible to be issued KPC Shares under the terms of the KPL Scheme having regard to the location of their registered address as shown in the KPL members register;

KPL means Kina Petroleum Limited, a body corporate incorporated under the *Companies Act 1997* of Papua New Guinea (ARBN 151 201 704);

KPL Scheme means a compromise or arrangement between KPL and KPL Shareholders regulated by the *Companies Act 1997* of Papua New Guinea, under which KPC will acquire all of the issued shares in KPL from KPL Shareholders, and is in substantially the same form as announced to ASX Limited ACN 008 624 691 on 1 March 2019;

KPL Scheme Booklet means the explanatory statement sent or to be sent to KPL Shareholders in connection with the KPL Scheme;

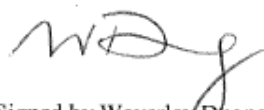
KPL Scheme Sale Facility means a facility provided in connection with the KPL Scheme under which the Sale Agent will sell KPC Shares that would otherwise have been issued as consideration to the Ineligible KPL Shareholders under the KPL Scheme, with the proceeds of such sales net of expenses (to the extent (if any) that they are not met by KPL) being remitted to Ineligible KPL Shareholders;

KPL Shareholder means a holder of ordinary shares in KPL;

KPC Share means an ordinary share in the issued capital of KPC; and

Sale Agent means the entity or entities appointed, or to be appointed, as sale agent under the KPL Scheme Sale Facility and all persons who carry out such entity's, or such entities', obligations under the KPL Scheme Sale Facility.

Dated this 11th day of March 2019



Signed by Waverley Duong
as a delegate of the Australian Securities and Investments Commission

19-0182

NOTICE UNDER SECTION 920E OF THE CORPORATIONS ACT 2001

Notice is given under section 920E of the Corporations Act 2001 that the Australian Securities and Investments Commission has made a banning order in the terms set out below, which order took effect on 4 September 2018.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**IN THE MATTER OF SENEN POUSA****BANNING ORDER UNDER SECTIONS 920A AND 920B
OF THE CORPORATIONS ACT 2001**

To: Senen Pousa

TAKE NOTICE that under subsections 920A(1) and 920B(2) of the Corporations Act 2001 the Australian Securities and Investments Commission prohibits Senen Pousa from providing any financial services permanently.

Dated this 22nd day of August 2018



Signed:
Delegate of the Australian Securities and Investments Commission

Your attention is drawn to subsection 920C(2) of the Corporations Act 2001 which provides that a person must not engage in conduct which breaches a banning order that has been made against the person. Contravention of subsection 920C(2) is an offence.

19-0183

**Australian Securities and Investments Commission
Corporations Act 2001 - Paragraph 1020F(1)(c) – Declaration**

Enabling legislation

1. The Australian Securities and Investments Commission (**ASIC**) makes this instrument under paragraph 1020F(1)(c) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0183.

Commencement

3. This instrument commences on the day it is signed.

Declaration

4. Part 7.9 of the Act applies to Perpetual Trust Services Limited ACN 000 142 049 in its capacity as the responsible entity of the Perpetual Credit Income Trust ARSN 626 053 496 (the **Scheme**) as if section 1017E of the Act were modified or varied as follows:
 - (a) in paragraph 1017E(4)(d) of the Act, omit "one month" and substitute "60 days"; and
 - (b) in paragraph 1017E(4)(e) of the Act, omit "end of that month" and substitute "end of the period referred to in paragraph (4)(d)".

Where this declaration applies

5. This declaration applies in relation to the offer of interests in the Scheme to new investors pursuant to a Product Disclosure Statement (the **PDS**) dated and lodged with ASIC on 8 March 2019, where the PDS includes a statement to the effect that money paid for the interests in the Scheme may be held for up to 60 days starting on the day on which the money was received before the interests in the Scheme are issued or the money is returned.

Dated this 12th March 2019



Signed by Flora Lee
as a delegate of the Australian Securities and Investments Commission

19-0200

**Australian Securities and Investments Commission
Corporations Act 2001 – Section 1020F - Declaration**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under section 1020F of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 19-0200.

Commencement

3. This instrument commences on the day it is signed.

Declaration

4. Part 7.9 of the Act applies to, and in relation to, Dexus and the Issuer as if section 9 of the Act were modified or varied as follows:
 - (a) in the definition of *continuously quoted securities* omit “prospectus or Product Disclosure Statement” (twice occurring), substitute “prospectus, Product Disclosure Statement or notice given under paragraph 1012DA(12C)(e)”; and
 - (b) in the definition of *convertible note* after “Income Tax Assessment Act 1936”, insert “and, in section 1012DA, includes a converting note”.
5. Part 7.9 of the Act applies to Dexus and the Issuer as if section 1012DA were modified or varied as follows:
 - (a) in paragraph (1)(a) omit “(11), (12) or (12A),”, substitute “(11), (12), (12A) or (12C),”; and
 - (b) after subsection (12B) insert:

“(12C) The regulated person does not have to give the client a Product Disclosure Statement if:

 - (a) the relevant product was issued by reason of the conversion of convertible notes; and
 - (b) on the day on which a notice in relation to the convertible notes was given under paragraph (e):

- (i) financial products in the same class as the relevant product were continuously quoted securities; and
- (ii) there was no determination in force under subsection 1013FA(3) in respect of the relevant product; and
- (c) trading in financial products in the class of relevant products on the prescribed financial market on which they were quoted was not suspended for more than a total of 5 days during the shorter of the period during which the class of relevant product was quoted, and the period of 12 months before the first day on which the convertible notes were issued; and
- (d) the conversion of the convertible notes did not involve any further offer; and
- (e) the issuer of the convertible notes gave the relevant market operator for the issuer a notice that complied with subsection (12D) on the same day as, or within 2 business days before, the first day on which the convertible notes were issued.

(12D) A notice complies with this subsection if:

- (a) the notice contains the following information:
 - (i) for the convertible notes—the information required by subsection 713(2); and
 - (ii) for financial products in the class of relevant products—the information required to be included in a Product Disclosure Statement for continuously quoted securities,as if the notice were a Product Disclosure Statement, and
- (b) the information in the notice is worded and presented in a clear, concise and effective manner; and
- (c) where the notice includes a statement by a person, or a statement said in the notice to be based on a statement by a person:
 - (i) the person has consented to the statement being included in the notice in the form and context in which it is included;
 - (ii) the notice states that the person has given this consent; and
 - (iii) the person has not withdrawn this consent before the notice is given to the relevant market operator.

(12E) If the issuer gives a notice under paragraph (12C)(e) in relation to convertible notes, each financial report or directors' report of the issuer (or if the issuer is the responsible entity of a registered scheme, the registered scheme) required under section 298 in relation to a financial year of the issuer (or scheme) during which those convertible notes were on issue must contain the following information:

- (a) the number of convertible notes in that class that have not converted as at the end of the financial year;
- (b) the number of financial products in the class of relevant products into which the convertible notes will convert;
- (c) the price (if any) to be paid on conversion;
- (d) the circumstances in which conversion may occur;
- (e) the remaining liability of the issuer to make payments under convertible notes in that class as at the end of the financial year;
- (f) the average conversion price (if any) paid for any convertible notes in that class that were converted during the financial year and the number of financial products in the class of relevant products into which they converted;
- (g) any other matters relating to the convertible notes that holders of ED securities of the issuer would reasonably require to make an informed assessment of the financial position of the issuer (or if the issuer is the responsible entity of a registered scheme, the registered scheme) and its prospects for future financial years.

(12F) The financial report and directors' report may omit material that would otherwise be required to be included under paragraph (12E)(g) if it is likely to result in unreasonable prejudice to:

- (a) the issuer (or, if the issuer is the responsible entity of a registered scheme, the registered scheme); or
- (b) if consolidated financial statements are required – the consolidated entity or any entity (including the issuer or, if the issuer is the responsible entity of a registered scheme, the registered scheme) that is part of the consolidated entity.

If material is omitted, the report must say so.”

Where this instrument applies

- 6. This instrument applies to an offer of stapled securities in Dexu for sale by a holder of the stapled securities where:
 - (a) the stapled securities in Dexu were issued by reason of the conversion of convertible notes issued by the Issuer;
 - (b) the offers of convertible notes were made on or about 12 March 2019 and did not require disclosure to investors under Part 6D.2 of the Act;
 - (c) the terms of the convertible notes are substantially the same as those provided to ASIC on 13 March 2019; and

- (d) except for this Instrument no declaration under paragraph 1020F(1) relating to a disclosing entity provision for the purposes of Division 4 of Part 1.2A of the Act covered Dexus or the Issuer.

Interpretation

7. In this Instrument:

Dexus means Dexus Funds Management Limited ACN 060 920 783 as responsible entity of each of Dexus Diversified Trust ARSN 089 324 541, Dexus Office Trust ARSN 090 768 531, Dexus Operations Trust ARSN 110 521 223 and Dexus Industrial Trust ARSN 090 879 137.

Issuer means Dexus Finance Pty Limited ACN 110 473 786.

Dated this 14th day of March 2019



Signed by Abramo Martinelli
as a delegate of the Australian Securities and Investments Commission



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**CORPORATIONS ACT
SECTION 657A
DECLARATION OF UNACCEPTABLE CIRCUMSTANCES**

BENJAMIN HORNIGOLD LIMITED 02

CIRCUMSTANCES

1. John Bridgeman Limited (**JBL**) is an NSX listed company.
2. Benjamin Hornigold Limited (**BHD**) and Henry Morgan Limited (**HML**) are ASX listed investment companies. Trading in BHD and HML shares is suspended.
3. JBL and HML have voting power of approximately 51.71% and 30.12% respectively in Bartholomew Roberts Pty Limited (**BRL**). JBL, HML and BRL have voting power of approximately 7.43%, 19.87% and 32.86% respectively in JB Financial Group Pty Ltd (**JBFG**). JBFG has a number of subsidiaries including JB Trading House Pty Ltd (**JB Trading**).
4. JBL is the manager for BHD, HML and BRL under investment management agreements. Mr Stuart McAuliffe is the Managing Director of JBL, HML, BHD and BRL and the Group Chief Executive Officer of JBFG. Mr John McAuliffe is the Chairman and non-executive director of JBL and BRL and the Chairman of HML. Mr Peter Aardoom is a director of BHD and JBFG. Mr Ross Patane is a director of JBL, HML and BRL. JBL, HML and BHD have the same two company secretaries.
5. Mr Stuart McAuliffe also has voting power of 22.58% in JBL and has an outstanding \$1 million loan to JBL (as a part of a \$2.5 million loan facility).
6. On 4 January 2018, JBL announced that it had made an offer to all shareholders in JBFG to acquire their shares for shares and options in JBL, subject to conditions. Offers are still open but not all conditions have been fulfilled.
7. On 6 June 2018, BHD announced that its board had approved in principle entering into an exclusive trading arrangement with JB Trading, with JB Trading issuing to BHD a \$13.5 million convertible note as consideration for entering into the exclusive trading arrangement (**JB Trading Transaction**).
8. On 30 June 2018, JBL issued a tax invoice to BHD of \$4,169,237 (excluding GST), which included performance fees, based on the impact on net tangible assets of the issue of convertible notes under the JB Trading Transaction. The amount referred to

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in the invoice was paid by BIID before the date of the invoice. The JB Trading Transaction was ultimately terminated.¹ BHD's preliminary final report² stated that:

"Due to a timing adjustment in relation to the proposed convertible note transaction with JB Trading House Pty Ltd and the subsequent exercise by the ASX of their discretion to require the Company to seek shareholder approval for the proposed convertible note transaction, fees of \$4,553,773 (which had been calculated on the basis that the transaction had been implemented at that time) were paid to the Investment Manager at 30 June 2018 and are now refundable."

9. On 3 August 2018, 536,585 JBL shares held by BHD were bought back by JBL for approximately \$1.1 million (\$2.05 per share). Also on 3 August 2018, 1,398,573 JBL shares held by HML were bought back by JBL for approximately \$2.8 million (\$2.05 per share).
10. On 8 August 2018, BHD and HML each made unsecured loans to JBL for a term of one year at 11.5% interest for \$1,134,000 and \$2,411,000 respectively.
11. On 5 September 2018, the boards of BHD and HML each considered confidential non-binding letters of intent from JBL for the proposed acquisition of all of the issued share capital in BHD and HML respectively. BHD and HML's boards each appointed a sub-committee to consider JBL's bid.
12. On 9 September 2018, BHD's board sub-committee approved entering into a bid implementation agreement with JBL. On 10 September 2018, HML's board sub-committee approved entering into a bid implementation agreement with JBL.
13. On 10 September 2018, JBL announced its intention to make scrip off-market takeover bids to acquire:
 - (a) all of the issued shares and options in BHD that it did not currently own and
 - (b) all the issued shares of HML that it did not currently own,

attaching signed bid implementation agreements. The announcement stated:

"If appropriate, following their consideration of HML's due diligence in relation to the HML Offer and their assessment of the independent expert report to be commissioned by them to consider the fairness and reasonableness of the offer, the HML independent directors have undertaken to recommend the HML Offer to HML shareholders in the absence of a superior proposal."

"Following their due diligence in respect of the BHD Offer, and the advice of an independent expert engaged by them to consider the fairness and reasonableness of the BHD Offer, the independent directors have undertaken to recommend the BHD Offer to BHD shareholders in the absence of a superior proposal."

¹ On 24 October 2018, BHD announced JB Trading had given notice to BHD terminating the JB Trading Transaction

² Released on ASX on or about 3 September 2018

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The announcement also included a statement (towards the end) that BHD and HML shareholders should carefully consider the target's statements before deciding whether to accept the bids.

14. In the bid implementation agreements, each of BHD and HML represented that their respective voting directors³ would unanimously recommend the bids in the absence of a superior proposal and subject to consideration of due diligence, matters detailed in any independent expert's report and the assessment of the bid by the expert. They also agreed to early dispatch of JBL's bidder's statements. The bid implementation agreements provided that parties would use best endeavours to comply with a timetable which included dispatch of BHD's and HML's target's statements and independent expert's reports at the same time as the bidder's statements (which, as noted below, did not occur).
15. JBL's bids for BHD and HML were not inter-conditional. Each bid was initially subject to a waivable 50.1% minimum acceptance condition.
16. On 17 September 2018, BHD's board agreed to amend the terms of a \$2.3 million convertible loan to JBFG, including extending the expiry date from 10 September 2018 to 11 March 2020.
17. On 17 September 2018, BHD's board agreed to convert the repayment of performance fees referred to in paragraph 8 into an unsecured loan of up to \$4.5 million at an interest rate of 11.50% per annum repayable within 18 months. Mr Stuart McAuliffe participated in this board decision.
18. On 16 October 2018, the boards of BHD and HML extended the loans to JBL (referred to in paragraph 10) for six months.
19. On 31 October 2018, JBL lodged bidder's statements in relation to its bids for BHD and HML. The bidder's statement for BHD stated on the first page:

"BHD'S VOTING DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU ACCEPT THIS OFFER IN THE ABSENCE OF A SUPERIOR PROPOSAL"

The bidder's statement for HML stated on the first page:

"HML'S VOTING DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU ACCEPT THIS OFFER IN THE ABSENCE OF A SUPERIOR PROPOSAL"

20. The statements referred to in paragraph 19 were repeated throughout JBL's bidder's statements for BHD and HML. Prior to lodgement,⁴ BHD and HML had asked JBL to amend these statements to reflect the conditionality of the recommendation. JBL did not make the requested amendments.
21. On 9 November 2018, JBL announced that it had completed dispatch of its bidder's statements for both BHD and HML. At the time of dispatch, JBL had voting power

³ In the case of BHD – Messrs Aardoom and Cook. In the case of HML – Mr Ziegler and Ms Gunner

⁴ On 24 October 2018

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of 0.19% in BHD and 11.07% in HML respectively. On the same day JBL also released an announcement "*clarifying*" (but not retracting) the statements referred to in paragraph 19 stating "*these statements must be read in the context of JBL's announcement of 10 September 2018 and other information provided in the Bidder's Statements despatched by JBL*".

22. On 22 November 2018, JBL:
 - (a) following discussions with ASIC, lodged supplementary bidder's statements in relation to its bids for BHD and HML. These supplementary bidder's statements, among other things, retracted the statements referred to in paragraph 19 and
 - (b) extended the offer period for its bids for BHD and HML to 14 January 2019.⁵ The extensions of the offer period for JBL's bids for BHD and HML triggered a right of withdrawal for BHD and HML shareholders who had accepted the bid before the date of the supplementary bidder's statement under ss650D(1)(a)(ii) and 650E of the *Corporations Act 2001* (Cth) (Act).
23. As at 22 November 2018, JBL had voting power in BHD and HML of 40.69% and 57.02% respectively.
24. On 26 November 2018, the same day that BHD and HML were required to lodge and dispatch their respective target's statements, the Panel affirmed earlier decisions of ASIC to refuse relief to BHD and HML to either (a) extend time for the dispatch of their target's statements or (b) permit them to lodge incomplete target's statements.⁶
25. On 27 November 2018, the voting directors of BHD and HML, in separate announcements, recommended to their shareholders for the first time that they take no action in relation to the JBL bids prior to the release of their respective target's statements.
26. On 6 December 2018, BHD and HML lodged their respective target's statements. Each target's statement:
 - (a) contained an independent expert's report concluding that the relevant bid is not fair but reasonable and
 - (b) included a statement that the voting directors recommend that shareholders accept the bid in the absence of a superior proposal.
27. The independent expert stated in its report on JBL's bid for BHD, as factors in determining that the bid is reasonable, that:
 - (a) "*BHD's current trading suspension, JBL's current relevant interest in BHD and BHD's significant exposure to JBL (through existing loans and convertible*

⁵ The offer period has since been extended to 11 February 2019

⁶ See *Benjamin Hornigold Limited and Henry Morgan Limited* [2018] ATP 23

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instruments) are likely to act as impediments to investors realising returns through distributions or capital appreciation in the near-term"

- (b) *"JBL's existing interest in BHD would likely act as a significant impediment to any third party considering a takeover offer for BHD as well as limit the ability of BHD Non-Associated shareholders who do not accept the BHD Offer to change investment manager in order to implement an alternative investment strategy"*
 - (c) *"JBL has a relevant interest in BHD in excess of 40% (subject to any withdrawals of acceptances) which may allow JBL to determine future investment decisions of BHD in addition to control of the management rights of BHD. JBL's relevant interest is also likely to preclude any other takeover offers for BHD or other corporate activity from a third party" and*
 - (d) *"Due to the significant loans made by BHD to JBL and JBFG, BHD has a dependency on JBL to be able to realise its investments in JBFG. BHD is unlikely to be able to realise the value of its loans other than in conjunction with JBL."*
28. On 24 December 2018, JBL announced that it had obtained shareholder approval for its bids for BHD and HML to proceed and declared both bids free of conditions.
29. The following transactions, which occurred after the announcement of JBL's bid, diminish the value of important assets of BHD making BHD less attractive to an acquirer and less likely to attract competing proposals (and as a result diminish the value of BHD if shareholders do not accept JBL's bid), in effect operating as a lock up device:
- (a) the loan provided by BHD to JBL described in paragraph 17
 - (b) the extension of the convertible loan to JBFG described in paragraph 16 and
 - (c) the extension of the loan to JBL described in paragraph 18.
30. JBL's bidder's statement in relation to its bid for BHD (as supplemented) did not adequately disclose:
- (a) the various relationships, and transactions, between JBL, BHD, HML, BRL, JBFG, JB Trading and their associates, noting that as the investment manager for BHD, HML and BRL, JBL had all the material information on this issue
 - (b) the risk that BHD shareholders will receive materially less value if JBL only obtains voting power of 50% or less in either or both BHD and HML
 - (c) the financial position of JBL and JBFG, including that audit opinions in both their most recent accounts refer to material uncertainty regarding going concern and
 - (d) the financial effect of the transactions referred to in paragraphs 10, 16, 17 and 18 and how they may impact on BHD shareholders' decision whether to accept the JBL bid.

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31. JBL's supplementary bidder's statement in relation to its bid for BHD did not adequately deal with ASIC's disclosure issues in a way that was accessible to BHD shareholders. BHD shareholders who had accepted the bid prior to the issue of JBL's supplementary bidder's statement were not adequately protected by the disclosure in the supplementary bidder's statement and the ability to withdraw their acceptances.
32. The above disclosure issues have not been adequately remedied by the issue of BHD's target's statement and independent expert's report.
33. The following in combination (among other things) indicate that BHD shareholders were denied sufficient time and information to assess the merits of JBL's bid and did not have the benefit of appropriate and sufficiently timely advice in relation to JBL's bid:
 - (a) BHD agreeing in advance and without qualification, in the bid implementation agreement, to early dispatch of the bidder's statement
 - (b) BHD and JBL not ensuring that the target's statement and independent expert's report were dispatched at the same time as the bidder's statement, as envisaged in the bid implementation agreement timetable that each party agreed to use its best endeavours to comply with
 - (c) JBL and BHD's directors' failure to promptly alert BHD shareholders of their concerns regarding JBL's bidder's statement including the fact that statements in the bidder's statement misrepresented the conditionality of the voting directors' recommendation (referred to in paragraphs 19 and 20)
 - (d) BHD dispatching its target's statement and independent expert's report late, in contravention of items 11 and 12 of s631(1) of the Act
 - (e) BHD's directors' failure to clearly advise its shareholders prior to 27 November 2018 to take no action in relation to the JBL bid before considering the target's statement and independent expert's report and
- (f) the almost identical responses of both BHD and HML to JBL's bids.

EFFECT

34. It appears to the Panel that:
 - (a) the acquisition of control over voting shares in BHD has not taken place in an efficient, competitive and informed market
 - (b) the holders of shares in BHD have not been given enough information to enable them to assess the merits of JBL's bid and
 - (c) as a result of the lock up device referred to in paragraph 29, the holders of shares in BHD have been denied a reasonable and equal opportunity to participate in the benefits of JBL's bid.

CONCLUSION

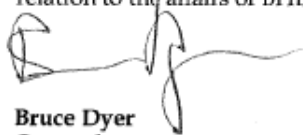
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35. It appears to the Panel that the circumstances are unacceptable circumstances:

- (a) having regard to the effect that the Panel is satisfied they have had, are having, will have or are likely to have on:
 - (i) the control, or potential control, of BHD or
 - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in BHD
- (b) in the alternative, in relation to the effect the circumstances have had, are having, will have or are likely to have in relation to BHD, having regard to the purposes of Chapter 6 set out in section 602 of the Act and
- (c) in the further alternative, because they constituted, constitute, will constitute or are likely to constitute a contravention of a provision of Chapter 6 of the Act.

DECLARATION

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of BHD.



Bruce Dyer
Counsel
with authority of James Dickson
President of the sitting Panel
Dated 25 January 2019



Australian Government

Takeovers Panel

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**CORPORATIONS ACT
SECTION 657A
DECLARATION OF UNACCEPTABLE CIRCUMSTANCES**

HENRY MORGAN LIMITED 02**CIRCUMSTANCES**

1. John Bridgeman Limited (JBL) is an NSX listed company.
2. Benjamin Hornigold Limited (BHD) and Henry Morgan Limited (HML) are ASX listed investment companies. Trading in BHD and HML shares is suspended.
3. JBL and HML have voting power of approximately 51.71% and 30.12% respectively in Bartholomew Roberts Pty Limited (BRL). JBL, HML and BRL have voting power of approximately 7.43%, 19.87% and 32.86% respectively in JB Financial Group Pty Ltd (JBFG). JBFG has a number of subsidiaries including JB Trading House Pty Ltd (JB Trading).
4. JBL is the manager for BHD, HML and BRL under investment management agreements. Mr Stuart McAuliffe is the Managing Director of JBL, HML, BHD and BRL and the Group Chief Executive Officer of JBFG. Mr John McAuliffe is the Chairman and non-executive director of JBL and BRL and the Chairman of HML. Mr Peter Aardoom is a director of BHD and JBFG. Mr Ross Patane is a director of JBL, HML and BRL. JBL, HML and BHD have the same two company secretaries.
5. Mr Stuart McAuliffe also has voting power of 22.58% in JBL and has an outstanding \$1 million loan to JBL (as a part of a \$2.5 million loan facility).
6. On 4 January 2018, JBL announced that it had made an offer to all shareholders in JBFG to acquire their shares for shares and options in JBL, subject to conditions. Offers are still open but not all conditions have been fulfilled.
7. On 3 August 2018, 536,585 JBL shares held by BHD were bought back by JBL for approximately \$1.1 million (\$2.05 per share). Also on 3 August 2018, 1,398,573 JBL shares held by HML were bought back by JBL for approximately \$2.8 million (\$2.05 per share).
8. On 8 August 2018, BHD and HML each made unsecured loans to JBL for a term of one year at 11.5% interest for \$1,134,000 and \$2,411,000 respectively.
9. On 5 September 2018, the boards of BHD and HML each considered confidential non-binding letters of intent from JBL for the proposed acquisition of all of the issued

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share capital in BHD and HML respectively. BHD and HML's boards each appointed a sub-committee to consider JBL's bid.

10. On 9 September 2018, BHD's board sub-committee approved entering into a bid implementation agreement with JBL. On 10 September 2018, HML's board sub-committee approved entering into a bid implementation agreement with JBL.
11. On 10 September 2018, JBL announced its intention to make scrip off-market takeover bids to acquire:
 - (a) all of the issued shares and options in BHD that it did not currently own and
 - (b) all the issued shares of HML that it did not currently own,

attaching signed bid implementation agreements. The announcement stated:

"If appropriate, following their consideration of HML's due diligence in relation to the HML Offer and their assessment of the independent expert report to be commissioned by them to consider the fairness and reasonableness of the offer, the HML independent directors have undertaken to recommend the HML Offer to HML shareholders in the absence of a superior proposal."

"Following their due diligence in respect of the BHD Offer, and the advice of an independent expert engaged by them to consider the fairness and reasonableness of the BHD Offer, the independent directors have undertaken to recommend the BHD Offer to BHD shareholders in the absence of a superior proposal."

The announcement also included a statement (towards the end) that BHD and HML shareholders should carefully consider the target's statements before deciding whether to accept the bids.

12. In the bid implementation agreements, each of BHD and HML represented that their respective voting directors¹ would unanimously recommend the bids in the absence of a superior proposal and subject to consideration of due diligence, matters detailed in any independent expert's report and the assessment of the bid by the expert. They also agreed to early dispatch of JBL's bidder's statements. The bid implementation agreements provided that parties would use best endeavours to comply with a timetable which included dispatch of BHD's and HML's target's statements and independent expert's reports at the same time as the bidder's statements (which, as noted below, did not occur).
13. JBL's bids for BHD and HML were not inter-conditional. Each bid was initially subject to a waivable 50.1% minimum acceptance condition.
14. On 17 September 2018, BHD's board agreed to amend the terms of a \$2.3 million convertible loan to JBFG, including extending the expiry date from 10 September 2018 to 11 March 2020.

¹ In the case of BHD – Messrs Aardoom and Cook. In the case of HML – Mr Ziegler and Ms Gunner

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15. On 17 September 2018, BHD's board agreed to convert a receivable it was owed by JBL into an unsecured loan of up to \$4.5 million at an interest rate of 11.50% per annum repayable within 18 months.
16. On 16 October 2018, the boards of BHD and HML extended the loans to JBL (referred to in paragraph 8) for six months.
17. On 31 October 2018, JBL lodged bidder's statements in relation to its bids for BHD and HML. The bidder's statement for BHD stated on the first page:

*"BHD'S VOTING DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU
ACCEPT THIS OFFER IN THE ABSENCE OF A SUPERIOR PROPOSAL"*

The bidder's statement for HML stated on the first page:

*"HML'S VOTING DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU
ACCEPT THIS OFFER IN THE ABSENCE OF A SUPERIOR PROPOSAL"*
18. The statements referred to in paragraph 17 were repeated throughout JBL's bidder's statements for BHD and HML. Prior to lodgement,² BHD and HML had asked JBL to amend these statements to reflect the conditionality of the recommendation. JBL did not make the requested amendments.
19. On 9 November 2018, JBL announced that it had completed dispatch of its bidder's statements for both BHD and HML. At the time of dispatch, JBL had voting power of 0.19% in BHD and 11.07% in HML respectively. On the same day JBL also released an announcement "*clarifying*" (but not retracting) the statements referred to in paragraph 17 stating "*these statements must be read in the context of JBL's announcement of 10 September 2018 and other information provided in the Bidder's Statements despatched by JBL*".
20. On 22 November 2018, JBL:
 - (a) following discussions with ASIC, lodged supplementary bidder's statements in relation to its bids for BHD and HML. These supplementary bidder's statements, among other things, retracted the statements referred to in paragraph 17 and
 - (b) extended the offer period for its bids for BHD and HML to 14 January 2019.³ The extensions of the offer period for JBL's bids for BHD and HML triggered a right of withdrawal for BHD and HML shareholders who had accepted the bid before the date of the supplementary bidder's statement under ss650D(1)(a)(ii) and 650E of the *Corporations Act 2001* (Cth) (Act).
21. As at 22 November 2018, JBL had voting power in BHD and HML of 40.69% and 57.02% respectively.

² On 22 October 2018³ The offer period has since been extended to 11 February 2019

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22. On 26 November 2018, the same day that BHD and HML were required to lodge and dispatch their respective target's statements, the Panel affirmed earlier decisions of ASIC to refuse relief to BHD and HML to either (a) extend time for the dispatch of their target's statements or (b) permit them to lodge incomplete target's statements.⁴
23. On 27 November 2018, the voting directors of BHD and HML, in separate announcements, recommended to their shareholders for the first time that they take no action in relation to the JBL bids prior to the release of their respective target's statements.
24. On 6 December 2018, BHD and HML lodged their respective target's statements. Each target's statement:
 - (a) contained an independent expert's report concluding that the relevant bid is not fair but reasonable and
 - (b) included a statement that the voting directors recommend that shareholders accept the bid in the absence of a superior proposal.
25. The independent expert stated in its report on JBL's bid for HML, as a factor in determining that the bid is reasonable, that:

"JBL has a relevant interest in HML in excess of 50% (subject to any withdrawals of acceptances) which may allow JBL to determine future investment decisions of HML in addition to control of the management rights of HML. JBL's existing interest in HML is also likely to preclude any other takeover offers for HML or other corporate activity from a third party"
26. On 24 December 2018, JBL announced that it had obtained shareholder approval for its bids for BHD and HML to proceed and declared both bids free of conditions.
27. JBL's bidder's statement in relation to its bid for HML (as supplemented) does not adequately disclose:
 - (a) the various relationships, and transactions, between JBL, BHD, HML, BRL, JBFG, JB Trading and their associates, noting that as the investment manager for BHD, HML and BRL, JBL had all the material information on this issue
 - (b) the risk that HML shareholders will receive materially less value if JBL only obtains voting power of 50% or less in either or both BHD and HML
 - (c) the financial position of JBL and JBFG, including that audit opinions in both their most recent accounts refer to material uncertainty regarding going concern and

⁴ See *Benjamin Hornigold Limited and Henry Morgan Limited* [2018] ATP 23

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- (d) the financial effect of the transactions referred to in paragraphs 8, 14 and 15 and how they may impact on HML shareholders' decision whether to accept the JBL bid.
28. JBL's supplementary bidder's statement in relation to its bid for HML did not adequately deal with ASIC's disclosure issues in a way that was accessible to HML shareholders. HML shareholders who had accepted the bid prior to the issue of JBL's supplementary bidder's statement were not adequately protected by the disclosure in the supplementary bidder's statement and the ability to withdraw their acceptances.
29. The above disclosure issues have not been adequately remedied by the issue of HML's target's statement and independent expert's report.
30. The following in combination (among other things) indicate that HML shareholders were denied sufficient time and information to assess the merits of JBL's bid and did not have the benefit of appropriate and sufficiently timely advice in relation to JBL's bid:
- (a) HML agreeing in advance and without qualification, in the bid implementation agreement, to early dispatch of the bidder's statement
 - (b) HML and JBL not ensuring that the target's statement and independent expert's report were dispatched at the same time as the bidder's statement, as envisaged in the bid implementation agreement timetable that each party agreed to use its best endeavours to comply with
 - (c) JBL and HML's directors' failure to promptly alert HML shareholders of their concerns regarding JBL's bidder's statement including the fact that statements in the bidder's statement misrepresented the conditionality of the voting directors' recommendation (referred to in paragraphs 17 and 18)
 - (d) HML dispatching its target's statement and independent expert's report late, in contravention of items 11 and 12 of s631(1) of the Act
 - (e) HML's directors' failure to clearly advise its shareholders prior to 27 November 2018 to take no action in relation to the JBL bid before considering the target's statement and independent expert's report and
 - (f) the almost identical responses of both BHD and HML to JBL's bids.

EFFECT

31. It appears to the Panel that:
- (a) the acquisition of control over voting shares in HML has not taken place in an efficient, competitive and informed market and
 - (b) the holders of shares in HML have not been given enough information to enable them to assess the merits of JBL's bid.

CONCLUSION

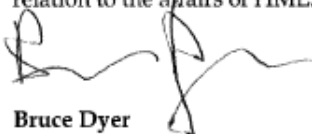
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32. It appears to the Panel that the circumstances are unacceptable circumstances:

- (a) having regard to the effect that the Panel is satisfied they have had, are having, will have or are likely to have on:
 - (i) the control, or potential control, of HML or
 - (ii) the acquisition, or proposed acquisition, by a person of a substantial interest in HML
- (b) in the alternative, in relation to the effect the circumstances have had, are having, will have or are likely to have in relation to HML, having regard to the purposes of Chapter 6 set out in section 602 of the Act and
- (c) in the further alternative, because they constituted, constitute, will constitute or are likely to constitute a contravention of a provision of Chapter 6 of the Act.

DECLARATION

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of HML.



Bruce Dyer
Counsel
with authority of James Dickson
President of the sitting Panel
Dated 25 January 2019



Australian Government

Takeovers Panel

19-0206

**CORPORATIONS ACT
SECTION 657D
ORDERS**

HENRY MORGAN LIMITED 02

The Panel made a declaration of unacceptable circumstances in relation to the affairs of HML on 25 January 2019 (**Declaration**).

THE PANEL ORDERS

1. JBL, and all officers, agents or persons acting on its behalf, must not take any further steps to process any acceptances received under JBL's bid until after the operation of Order 2.
2. At the end of 5 days after the Commencement Date, all acceptances of JBL's bid at that time are cancelled.
3. After the operation of Order 2, any acceptance of JBL's bid received before dispatch of the Further Disclosure (or on an acceptance form attached to the Bidder's Statement whether received before or after dispatch of the Further Disclosure) is cancelled at the time it is received by JBL.
4. JBL must within 5 days of the Commencement Date dispatch a supplementary bidder's statement, in a form acceptable to ASIC, to all HML shareholders explaining the effect of the Panel's declaration and orders, including that any acceptances of JBL's bid received before dispatch of the Further Disclosure are cancelled.
5. HML must within 5 days of the Commencement Date dispatch a supplementary target's statement, in a form acceptable to ASIC, to all HML shareholders explaining the effect of the Panel's declaration and orders and stating that HML shareholders should wait until they receive the Supplementary Target's Statement and Supplementary Expert's Report before deciding whether to accept JBL's bid.
6. Within 30 days after the Commencement Date, JBL must dispatch either of the following to HML shareholders:
 - (a) a Replacement Bidder's Statement complying with Order 8 (in a form acceptable to ASIC) or
 - (b) a supplementary bidder's statement (in a form acceptable to ASIC) stating that its takeover offer for HML is closed or has been cancelled in accordance with these orders.
7. If JBL does not dispatch the Replacement Bidder's Statement in accordance with Order 6, and JBL's bid remains open for acceptance, offers under JBL's bid are cancelled and accordingly Orders 8 to 11 cease to apply.

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8. The Replacement Bidder's Statement must comply with s636 of *Corporations Act 2001* (Cth) and applicable ASIC regulatory guides and include the following:
 - (a) a prominent statement on the front cover that HML shareholders should wait until they receive the Supplementary Target's Statement and accompanying Supplementary Expert's Report before deciding whether to accept the bid
 - (b) a description of the various relationships, and transactions, between JBL, HML, BHD, BRL, JBFG, JB Trading and their associates
 - (c) the risk that HML shareholders will receive materially less value if JBL only obtains voting power of 50% or less in either or both HML and BHD
 - (d) most recent financial statements of JBL and HML noting the effect of the repayment of the JBL Loan on JBL
 - (e) a prominent statement noting that the most recent audit opinions of JBL and JBFG refer to material uncertainty regarding going concern
 - (f) details of the financial effect of the transactions referred to in paragraphs 8 (including the extension) and 14 of the Declaration and the repayment of the JBL Loan and how each may impact on HML shareholders' decision whether to accept the JBL bid and
 - (g) acceptance forms that are identifiably different from the acceptance forms in the Bidder's Statement.
9. JBL may reintroduce any conditions originally in the Bidder's Statement in the Replacement Bidder's Statement. If JBL does so in relation to a condition, its notice under s650F dated 24 December 2018 has no effect as it is stated to apply to that condition.
10. Before the Replacement Bidder's Statement is dispatched to HML shareholders, JBL and HML must provide to the independent expert all financial information in their possession in relation to JBL, HML, BHD, BRL, JBFG and JB Trading, including but not limited to the effect of repayment of the JBL Loan on the financial position of JBL.
11. Within 14 days of dispatch of the Replacement Bidder's Statement (if dispatched), HML must dispatch:
 - (a) a Supplementary Target's Statement disclosing the Voting Director's recommendation following consideration of the Replacement Bidder's Statement and Supplementary Expert's Report and
 - (b) a supplementary independent expert's report stating whether at the date of the supplementary independent expert's report JBL's bid is fair and reasonable following consideration of the Replacement Bidder's Statement, repayment of the JBL Loan and cancellation of the acceptances.
12. In these orders the following terms apply:

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Bidder's Statement	JBL's bidder's statement in relation to JBL's bid lodged on or about 31 October 2018
BHD	Benjamin Hornigold Limited
BRL	Bartholomew Roberts Pty Limited
Commencement Date	14 February 2018 or two business days after any stay of these orders (other than Order 1) is lifted
Further Disclosure	Either the Replacement Bidder's Statement or supplementary bidder's statement referred to in Order 6
HML	Henry Morgan Limited
HML shareholders	Shareholders of HML, including any shareholder who has accepted JBL's bid
JBFG	JB Financial Group Pty Ltd
JBL	John Bridgeman Limited
JBL's bid	JBL's bid for HML
JBL Loan	The \$4.5 million loan given to JBL by BHD on or about 17 September 2018
JB Trading	JB Trading House Pty Ltd
Replacement Bidder's Statement	The replacement bidder's statement referred to in Order 6(a)
Supplementary Expert's Report	The supplementary independent expert's report referred to in Order 11(b)
Supplementary Target's Statement	The supplementary target's statement referred to in Order 11(a)
Voting Directors	HML directors authorised to consider and provide a recommendation in relation to JBL's bid



Allan Bulman
Director
with authority of James Dickson
President of the sitting Panel
Dated 8 February 2019



Australian Government

Takeovers Panel

**CORPORATIONS ACT
SECTION 657D
ORDERS**

19-0207

BENJAMIN HORNIGOLD LIMITED 02

The Panel made a declaration of unacceptable circumstances in relation to the affairs of BHD on 25 January 2019 (**Declaration**).

THE PANEL ORDERS

1. JBL, and all officers, agents or persons acting on its behalf, must not take any further steps to process any acceptances received under JBL's bid until after the operation of Order 2.
2. At the end of 5 days after the Commencement Date, all acceptances of JBL's bid at that time are cancelled.
3. After the operation of Order 2, any acceptance of JBL's bid received before dispatch of the Further Disclosure (or on an acceptance form attached to the Bidder's Statement whether received before or after dispatch of the Further Disclosure) is cancelled at the time it is received by JBL.
4. JBL must within 5 days of the Commencement Date dispatch a supplementary bidder's statement, in a form acceptable to ASIC, to all BHD shareholders explaining the effect of the Panel's declaration and orders, including that any acceptances of JBL's bid received before dispatch of the Further Disclosure are cancelled.
5. BHD must within 5 days of the Commencement Date dispatch a supplementary target's statement, in a form acceptable to ASIC, to all BHD shareholders explaining the effect of the Panel's declaration and orders and stating that BHD shareholders should wait until they receive the Supplementary Target's Statement and Supplementary Expert's Report before deciding whether to accept JBL's bid.
6. Within 20 days after the Commencement Date, JBL must repay to BHD the JBL Loan (with any interest).
7. Within 30 days after the Commencement Date, JBL must dispatch either of the following to BHD shareholders:
 - (a) a Replacement Bidder's Statement complying with Order 9 (in a form acceptable to ASIC) or
 - (b) a supplementary bidder's statement (in a form acceptable to ASIC) stating that its takeover offer for BHD is closed or has been cancelled in accordance with these orders.

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8. If JBL does not comply with Order 6 or dispatch the Replacement Bidder's Statement in accordance with Order 7, and JBL's bid remains open for acceptance, offers under JBL's bid are cancelled and accordingly Orders 9 to 12 cease to apply.
9. The Replacement Bidder's Statement must comply with s636 of *Corporations Act 2001* (Cth) and applicable ASIC regulatory guides and include the following:
 - (a) a prominent statement on the front cover that BHD shareholders should wait until they receive the Supplementary Target's Statement and accompanying Supplementary Expert's Report before deciding whether to accept the bid
 - (b) a description of the various relationships, and transactions, between JBL, BHD, HML, BRL, JBFG, JB Trading and their associates
 - (c) the risk that BHD shareholders will receive materially less value if JBL only obtains voting power of 50% or less in either or both BHD and HML
 - (d) most recent financial statements of JBL and BHD noting the effect of the repayment of the JBL Loan
 - (e) a prominent statement noting that the most recent audit opinions of JBL and JBFG refer to material uncertainty regarding going concern
 - (f) details of the financial effect of the transactions referred to in paragraphs 10, 16 and 18 of the Declaration and the repayment of the JBL Loan and how each may impact on BHD shareholders' decision whether to accept the JBL bid and
 - (g) acceptance forms that are identifiably different from the acceptance forms in the Bidder's Statement.
10. JBL may reintroduce any conditions originally in the Bidder's Statement in the Replacement Bidder's Statement. If JBL does so in relation to a condition, its notice under s650F dated 24 December 2018 has no effect as it is stated to apply to that condition.
11. Before the Replacement Bidder's Statement is dispatched to BHD shareholders, JBL and BHD must provide to the independent expert all financial information in their possession in relation to JBL, BHD, HML, BRL, JBFG and JB Trading, including but not limited to the effect of repayment of the JBL Loan on the financial position of JBL and BHD.
12. Within 14 days of dispatch of the Replacement Bidder's Statement (if dispatched), BHD must dispatch:
 - (a) a Supplementary Target's Statement disclosing the Voting Director's recommendation following consideration of the Replacement Bidder's Statement and Supplementary Expert's Report and
 - (b) a supplementary independent expert's report stating whether at the date of the supplementary independent expert's report JBL's bid is fair and reasonable

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following consideration of the Replacement Bidder's Statement, repayment of the JBL Loan and cancellation of the acceptances.

13. In these orders the following terms apply:

Bidder's Statement	JBL's bidder's statement in relation to JBL's bid lodged on or about 31 October 2018
BHD	Benjamin Hornigold Limited
BHD shareholders	Shareholders of BHD, including any shareholder who has accepted JBL's bid
BRL	Bartholomew Roberts Pty Limited
Commencement Date	14 February 2018 or two business days after any stay of these orders (other than Order 1) is lifted
Further Disclosure	Either the Replacement Bidder's Statement or supplementary bidder's statement referred to in Order 7
HML	Henry Morgan Limited
JBFG	JB Financial Group Pty Ltd
JBL	John Bridgeman Limited
JBL's bid	JBL's bid for BHD
JBL Loan	The \$4.5 million loan given to JBL by BHD on or about 17 September 2018
JB Trading	JB Trading House Pty Ltd
Replacement Bidder's Statement	The replacement bidder's statement referred to in Order 7(a)
Supplementary Expert's Report	The supplementary independent expert's report referred to in Order 12(b)
Supplementary Target's Statement	The supplementary target's statement referred to in Order 12(a)

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Voting Directors

BHD directors authorised to consider and
provide a recommendation in relation to JBL's
bid



Allan Bulman
Director
with authority of James Dickson
President of the sitting Panel
Dated 8 February 2019

CORPORATIONS ACT 2001
Section 601CL(5)

ASIC has struck the foreign companies listed
below off the register.

Dated this fifteenth day of March 2019

Rosanne Bell
DELEGATE OF
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Name of Company	ARBN
DRAKE PERSONNEL LIMITED	007 504 609
PRIMERO MINING CORP.	162 120 327
TOKYO ELECTRIC POWER COMPANY, INCORPORATED	160 218 119
WATERLOO COOKS PROPERTIES LIMITED	111 529 483

CORPORATIONS ACT 2001
Subsection 601CC(4)

ASIC has struck the registered Australian bodies
listed below off the register.

Dated this fifteenth day of March 2019

Rosanne Bell
DELEGATE OF
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Name of Company

ARBN

INTERNATIONAL SAFER INSTITUTE (AUSTRALIA) INC

624 704 543

CORPORATIONS ACT 2001
Section 601CL(4)

ASIC will strike the foreign companies listed below off the register three months after the publication of this notice, unless given acceptable reason not to proceed.

Dated this fifteenth day of March 2019

Rosanne Bell
DELEGATE OF
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Name of Company

ARBN

HALCO ROCK TOOLS LIMITED

088 633 514

PENN CAPITAL MANAGEMENT COMPANY, INC.

168 395 588

CORPORATIONS ACT 2001
Subsection 601PA(3)

ASIC may deregister the managed investment scheme(s) listed below two months after the publication of this notice, unless given acceptable reason not to proceed.

Dated this fifteenth day of March 2019

Rosanne Bell
DELEGATE OF
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Name of Scheme

ARSN

DUET FINANCE TRUST

109 363 135

CORPORATIONS ACT 2001
Subsection 601PB(2)

ASIC may deregister the managed investment schemes listed below two months after the publication of this notice, unless given acceptable reason not to proceed.

Dated this fifteenth day of March 2019

Rosanne Bell
DELEGATE OF
THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Name of Scheme	ARSN
FORAGER WHOLESALE VALUE FUND	110 619 488
ZURICH INVESTMENTS GLOBAL EQUITY INCOME SCHEME	131 131 569

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 Administrative Appeals Tribunal prevents it from doing so.

BIT TRADE LIMITED ACN 163 237 634 will change to a proprietary company limited by shares. The new name will be BIT TRADE PTY LIMITED ACN 163 237 634.

SEA SKI AUSTRALASIA LIMITED ACN 148 938 916 will change to a proprietary company limited by shares. The new name will be SEA SKI AUSTRALASIA PTY LTD ACN 148 938 916.

TECH PROJECT HOLDINGS PTY LTD ACN 169 197 915 will change to a public company limited by shares. The new name will be TECH PROJECT HOLDINGS LIMITED ACN 169 197 915.

DI-JIA LTD ACN 631 856 927 will change to a proprietary company limited by shares. The new name will be DI-JIA PTY LTD ACN 631 856 927.

SIMULATED TRADING SYSTEMS LTD. ACN 140 286 808 will change to a proprietary company limited by shares. The new name will be SIMULATED TRADING SYSTEMS PTY LTD ACN 140 286 808.