

25th June 2019

Kim Demarte
Senior Specialist—Mergers & Acquisitions Corporations
Australian Securities and Investments Commission
Level 7, 120 Collins Street
Melbourne, VIC, 3000

Dear Kim,

Re: Consultation Paper 312 – Submission

I wish to lodge a submission regarding Consultation Paper 312: Stub equity in control transactions.

As a sophisticated investor, and a holder of stub equity in KKR's acquisition of Pepper Group, I am concerned that the Australian Securities and Investments Commission (ASIC) is considering making significant changes to the current practices.

There has been a significant decline in the number of listed entities on overseas markets, such as the United States, over the past decade in part as the result of private entity taking companies private. This trend is becoming evident here and following the significant growth in the industry superannuation funds, who are now coinvesting alongside private equity funds, a greater number of entities are likely to disappear from the Australian equity market.

The market capitalisation of companies targeted by private equity is unlikely to be below A\$1 billion given the risks, time and legal costs of undertaking such a transaction and the targeted return hurdles. As a consequence of these trends, the pool of established companies may shrink providing less quality investment opportunities for retail shareholders.

Given the acquisition of Pepper Group in 2017 by KKR, I took the view that the longer-term returns were likely to substantially outweigh the cash alternative and became a stub holder. An investment thesis was behind my investing in the listed entity which took into account the sector exposure, operating management and growth initiatives. This due diligence had already been undertaken so continuing to invest in this business could be considered to have a lower risk profile than being forced to investment the cash proceeds in some other entity.

I note that ASIC has concerns that *"Under the law, proprietary companies are required to be closely held and are prohibited from making general public offers of their shares under a*

prospectus. By structuring control transactions to avoid these restrictions, retail investors who accept scrip consideration miss out on the disclosure and governance protections that apply to public companies, but from which proprietary companies are exempt."

All actions taken by professional private equity firms, such as KKR, will be to maximise the value of the company in which they have invested considerable capital. To quote Jack Lang "always back the horse called self-interest". Assuming that any capital raising is being offered to stub holders on the same terms as to the principal investors, then the risks being raised by ASIC in my opinion are overstated.

ASIC is mistaken if it believes that currently disclosure regime of prospectus documents results in the majority of retail investors adequately reviewing these documents, including the risk sections, prior to investing.

Business is inherently risky and it is not ASIC's role to eliminate risk but to create the framework for an efficient capital market. A capital injection by the Principals, and the stub holders, may not deliver the expected returns. Such an outcome is most likely to arise from changing business conditions rather than inappropriate behaviour.

Specifically, with respect to Question B1Q1 ASIC should not prevent offers of stub equity in proprietary companies to retail investors. However, if ASIC is intent on making changes to the current practice then the regulator could consider participation limited to sophisticated investors and leave the market to operate without excessive regulation.

ASIC appears to be concerned "*that members who once held shares in what is typically an ASX-listed public company are offered an investment leaving them with limited rights in a proprietary company which, by design, is subject to a lower standard of governance and disclosure*".

This concern is unwarranted as shareholders have access to the Shareholders Deed of the acquiring structure prior to making the investment decision to become a stub holder. The rights of shareholders including tag along and drag along rights are clearly detailed in this document. It is up to the shareholder to read and determine whether such a structure is appropriate for their investment portfolio not ASIC.

Since Pepper Group was delisted in December 2017 the holding company has had four rights issues reflecting the strong underlying business growth which has resulted in over a 50% growth in Total Assets in FY18 and an increase in the value of my investment over this eighteen-month timeframe of in excess of 25%. If had ASIC introduced these proposed changes earlier, I would have potentially been denied the opportunity to co-invest. I now have a proportion of my portfolio managed by a skilled private equity management team, and the performance of this investment is not highly correlated to price movements of listed equity markets which in itself is positive.

It should be noted that the average investor will not have sufficient investible funds to access private equity fund managers given minimum investment thresholds that generally are applicable. Becoming a stub investor provides retail investors access to private equity

managers without having to pay an ongoing annual management fee. Illiquidity is certainly a feature of stub investing but this can be managed by holding higher levels of liquid assets across the rest of their portfolio.

I believe the benefits of being a stub holder considerably out way the risks highlighted by the regulator are largely theoretical in nature. In my opinion, the status quo should be maintained.

If you would like to discuss in more detail my mobile number is

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Hobson', written in a cursive style.

John Hobson

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study, including a series of graphs and tables that illustrate the findings. The data shows a clear trend of increasing values over time.

4. The fourth part of the document discusses the implications of the results and the potential applications of the findings. It suggests that the study could be used to inform policy decisions and to guide future research.

5. The fifth part of the document concludes the study and provides a summary of the key findings. It reiterates the importance of accurate record-keeping and the need for ongoing research in this area.

6. The sixth part of the document includes a list of references and a bibliography, providing sources for the information used in the study. It also includes a list of figures and tables that are referenced throughout the text.

7. The seventh part of the document contains a list of appendices, which provide additional information and data related to the study. These appendices are intended to support the main text and provide a more complete picture of the research.

8. The eighth part of the document includes a list of footnotes and a glossary, which provide definitions for key terms and clarify any ambiguities in the text. It also includes a list of abbreviations and acronyms used throughout the document.

9. The ninth part of the document contains a list of acknowledgments, which thank the individuals and organizations that provided support and assistance during the course of the study. It also includes a list of authors and their affiliations.

10. The tenth part of the document includes a list of references and a bibliography, providing sources for the information used in the study. It also includes a list of figures and tables that are referenced throughout the text.

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