



## Quarterly Bulletin on Takeovers Matters

**(Third & Fourth Quarter 2022)**

For the benefit of Takeovers Forum members, we have compiled various information and updates relating to takeover matters extracted from the official site of each Forum member. This bulletin will be published quarterly to serve as a centralised information hub on takeover matters.

*(Please click on the title of each item to go to the full write-up at the original source)*

### ***SECURITIES & FUTURES COMMISSION, HONG KONG***

The SFC's Takeovers Bulletin is a newsletter to help participants in Hong Kong's financial markets better understand the Codes on Takeovers and Mergers and Share Buy-backs.

#### **[TAKEOVERS BULLETIN – Issue No. 63 – December 2022](#)**

In its December 2022 issue, the following matters were highlighted:

- Public criticism of Gold Dragon Worldwide Asset Management Limited for breaching dealing disclosure requirements
- Quarterly update on the activities of the Takeovers Team
- New Practice Note 24

#### **[TAKEOVERS BULLETIN – Issue No. 62 – September 2022](#)**

In its September 2022 issue, the following matters were highlighted:

- Takeovers Panel's decision on granting a special waiver from the general offer obligation
- Quarterly update on the activities of the Takeovers Team
- Takeovers Panel's decision on the offer price in a mandatory general offer

## **MONETARY AUTHORITY OF SINGAPORE**

### **[Practice statement on the waiver of the application of the Singapore Code on Take-overs and Mergers to unlisted public companies](#)**

7 October 2022 – The code applies to, amongst others, unlisted public companies incorporated in Singapore with more than 50 shareholders and net tangible assets of S\$5 million or more. Such companies may apply to the Council to waive the application of the code. The practice statement sets out the regime for an unlisted public company to obtain a code waiver.

## **TAKEOVERS PANEL OF AUSTRALIA**

### **[Lincoln Minerals Limited 02 & 03](#)**

15 December 2022 – The Panel, Kristen Jung, Bill Koeck and Tony Osmond (sitting President), declined to make a declaration of unacceptable circumstances in relation to the affairs of Lincoln Minerals Limited. The applications (heard together) concerned a pro-rata rights issue by Lincoln to eligible shareholders and a takeover bid for Lincoln by Quantum, one of the applicants. During the proceedings, Lincoln provided further disclosure in the form of a supplementary target’s statement which the Panel considered sufficiently addressed certain concerns raised in relation to undervalue statements and shareholder intention statements. The Panel declined to make a declaration in relation to other concerns raised by the applications in light of all the circumstances.

### **[Panel Publishes Consultation Paper – Revised Guidance Note 19 on Insider Participation in Control Transactions](#)**

14 December 2022 – The Panel today released a Consultation Paper seeking public comment in relation to proposed revisions to Guidance Note 19 on Insider Participation in Control Transactions. The proposed revisions seek to (among other things) clarify the scope and policy bases of the Guidance Note with references to recent Panel decisions. The Panel seeks comments from interested persons on the draft Guidance Note by Tuesday, 28 February 2023. Comments should be emailed to [takeovers@takeovers.gov.au](mailto:takeovers@takeovers.gov.au). The Consultation Paper and draft Guidance Note are available on the Panel’s website on the Consultations page.

### **[Panel Publishes Consultation Paper – Revised Guidance Note 7 on Lock-up Devices](#)**

14 December 2022 – The Panel today released a Consultation Paper seeking public comment in relation to proposed revisions to Guidance Note 7 on Lock-up devices (proposed to be renamed to “Deal protection”). The proposed revisions seek to (among other things) clarify the Guidance Note’s application to deal protection devices entered into in respect of non-binding proposals, including to provide guidance on the Panel’s approach to ‘hard’ exclusivity arrangements. The Panel seeks comments from interested persons on the draft Guidance Note by Tuesday, 28 February 2023. Comments should be emailed to

takeovers@takeovers.gov.au. The Consultation Paper and draft Guidance Note are available on the Panel's website on the Consultations page.

### **Takeovers Panel Redesigned Website Launch**

8 December 2022 – The Takeovers Panel has launched its redesigned website. It is now live and located at the same address: [www.takeovers.gov.au](http://www.takeovers.gov.au). Applications can now be uploaded through the new Online application form. As contemplated by the Panel's Procedural Guidelines, this will now be the Panel's preferred method for receiving applications.

### **CD Private Equity Fund II**

6 December 2022 – The Panel, Yasmin Allen (sitting President), Marissa Freund and Ian Jackman SC, declined to conduct proceedings on an application in relation to the affairs of CD Private Equity Fund II. The application concerned the proposed merger of the fund by way of a trust scheme of arrangement. The proposed merger was withdrawn shortly after the application was made. In light of this withdrawal, the Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

### **Lincoln Minerals Limited 04R – Panel Receives Review Application**

2 December 2022 – The Panel has received an application from Quantum Graphite Limited seeking a review of the Panel's decision in Lincoln Minerals Limited 02 & 03. A review Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Lincoln Minerals Limited 02 & 03 – Panel Declines to Make a Declaration**

29 November 2022 – The Panel has declined to make a declaration of unacceptable circumstances in response to applications dated 27 October 2022 and 31 October 2022 from Olary Holdings Limited and Quantum Graphite Limited (respectively) in relation to the affairs of Lincoln Minerals Limited.

### **Mineral Commodities Limited 02 – Declaration of Unacceptable Circumstances and Undertakings**

28 November 2022 – The Panel has made a declaration of unacceptable circumstances and accepted undertakings in lieu of making final orders in relation to an application dated 17 October 2022 by Simto Resources Pty Ltd in relation to the affairs of Mineral Commodities Limited.

### **CD Private Equity Fund II – Panel Declines to Conduct Proceedings**

15 November 2022 – The Panel has declined to conduct proceedings on an application dated 27 October 2022 from Baauer Pty Ltd atf the Baauer Family Trust in relation to the affairs of CD Private Equity Fund II.

### **Lincoln Minerals Limited 03 – Panel Receives Application**

31 October 2022 – The Panel has received an application from Quantum Graphite Limited (Quantum or QGL) in relation to the affairs of Lincoln Minerals Limited (Lincoln). Lincoln is the subject of an off-market takeover bid for all the ordinary shares in Lincoln by Quantum.

### **Lincoln Minerals Limited 02 – President Declines to Make Interim Order**

31 October 2022 – The President of the Panel has declined to make an interim order delaying the annual general meeting scheduled for today in response to an application dated 27 October 2022 by Olary Holdings Limited in relation to the affairs of Lincoln Minerals Limited. Once a sitting Panel is appointed, the Panel may consider it appropriate to consider the question of interim orders.

### **Lincoln Minerals Limited 02 – Panel Receives Application**

28 October 2022 – The Panel has received an application from Olary Holdings Limited in relation to the affairs of Lincoln Minerals Limited. A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Nimrod Resources Limited 02**

28 October 2022 – The Panel, James Burchnall, Anthony Jarvis and Sarah Rennie (sitting President), declined to conduct proceedings on an application by Romell Pty Ltd in relation to the affairs of Nimrod Resources Limited. The application concerned whether an increase in a shareholder’s voting power from 33% to 43.78% under Nimrod’s entitlement offer was outside the exception in item 10 of section 6111 because Nimrod had not appointed a section 615 nominee. The Panel considered that the proportion of foreign shareholders potentially excluded from the entitlement offer would not have had a material impact on the control of Nimrod and the application had not been made in a timely manner. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

### **CD Private Equity Fund II – Panel Receives Application**

27 October 2022 – The Panel has received an application from Baauer Pty Ltd atf the Baauer Family Trust in relation to the affairs of CD Private Equity Fund II (CD2). CD2 is currently the subject of a trust scheme of arrangement. A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Mineral Commodities Limited 02 – Panel Receives Application**

18 October 2022 – The Panel has received an application from Simto Resources Pty Ltd in relation to the affairs of Mineral Commodities Limited. The application concerns a private placement and rights issue proposed by Mineral Commodities. A sitting Panel has not been appointed at this stage and no decision

has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

#### **Nimrod Resources Limited 02 – Panel Declines to Conduct Proceedings**

10 October 2022 – The Panel has declined to conduct proceedings on an application dated 23 September 2022 from Romell Pty Ltd in relation to the affairs of Nimrod Resources Limited. The application concerned participation by a substantial shareholder of Nimrod, Goldtower Construction Pty Ltd ATF GTC Trust (Goldtower), in an entitlement offer conducted by Nimrod in June 2022, resulting in Goldtower increasing its interest of 33% of the Nimrod shares to 43.87%. The Applicant alleged that, as Nimrod did not appoint a section 615 nominee in respect to the foreign shareholders of Nimrod, the exception in item 10 of section 611 did not apply (because not all shareholders had a reasonable opportunity to apply under the entitlement offer) and accordingly Goldtower had contravened the takeovers prohibition in section 606.

#### **Lincoln Minerals Limited – Variation to Undertaking**

10 October 2022 – The Panel has consented to a variation to the undertaking given by Lincoln Minerals Limited (Lincoln) in the Lincoln Minerals Limited proceedings. The application in Lincoln Minerals Limited concerned (among other things) the proposed issue of convertible notes by Lincoln, subject to necessary approvals, to Australia Poly Minerals Investments Pty Ltd (APMI), a company associated with Lincoln's 19.91% shareholder, which upon their conversion into shares, could increase APMI's voting power to a maximum of 48.55%. The Panel decided not to conduct proceedings after accepting an undertaking from Lincoln.

#### **Nimrod Resources Limited 02 – Panel Receives Application**

27 September 2022 – The Panel has received an application from Romell Pty Ltd in relation to the affairs of Nimrod Resources Limited. The application concerns potential control issues resulting from completion of an entitlement offer undertaken by Nimrod during June 2022. A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application

#### **Firetail Resources Limited**

31 August 2022 – The Panel, Bruce Cowley, Chelsey Drake and Richard Hunt (sitting President), declined to conduct proceedings on an application concerning an alleged association among a group of shareholders of Firetail Resources Limited, including shareholders who had provided notices under s203D and s249D, resulting in contraventions of s606 and the substantial holding provisions. The Panel considered that it was not provided with a sufficient body of material to justify the Panel making further enquiries in relation to the alleged association and accordingly, there was no reasonable prospect that it would declare the circumstances unacceptable.

### **Firetail Resources Limited – Panel Declines to Conduct Proceedings**

18 August 2022 – The Panel has declined to conduct proceedings on an application dated 27 July 2022 from Firetail Resources Limited in relation to its affairs. The application concerned notices under s203D and s249D lodged by Moray Holdings (QLD) Pty Ltd and Japan & China Holdings Australia Pty Ltd and submissions that, among other things, a group of shareholders that includes Moray Holdings and Japan & China Holdings, “understood to hold an aggregate voting power of approximately 40% (together, Associated Shareholders), appear to be acting in concert for the purposes of influencing the composition of the board of Firetail”, that the identity of a substantial holder of Firetail has not been disclosed and, accordingly, there have been contraventions of s606 and s671B. The Panel considered that Firetail did not provide a sufficient body of material to justify the Panel making further enquiries in relation to whether the persons referred to in the application were associates resulting in contraventions of s606 and the substantial holding provisions. The Panel also considered that it was open to Firetail (or ASIC) to make a further application to the Panel after issuing further tracing notices in relation to shareholdings held by certain banking institutions. The Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings. The sitting Panel was Bruce Cowley, Chelsey Drake and Richard Hunt (sitting President).

### **DRA Global Limited**

8 August 2022 – The Panel, Kelvin Barry, Jeremy Leibler (sitting President) and Tara Page, made a declaration of unacceptable circumstances in relation to the affairs of DRA Global Limited. The application concerned an alleged association between members of DRA’s management and other shareholders in relation to changes proposed to the board of DRA and its operating model. The Panel declared the circumstances unacceptable as they constituted or gave rise to contraventions of section 606 and section 671B and were not consistent with an efficient, competitive and informed market. The Panel made orders requiring disclosure from the associates and DRA in relation to the circumstances found to be unacceptable, and restricting the associates, for a period of 6 months, from requisitioning a shareholder meeting to remove or appoint directors, being appointed as director of DRA and exercising their voting rights in relation to the election of directors.

### **Molopo Energy Limited 03R, 04R & 05R Variation**

1 August 2022 – The Panel, Michelle Jablko (sitting President), Christian Johnston and Tara Page, varied the final orders made on 7 July 2017 (as varied on 18 September 2020) by the sitting Panel in Molopo Energy Limited 03R, 04R & 05R. The variation stays the sale of the Molopo shares vested in ASIC under the orders until certain court proceedings are resolved.

### **Firetail Resources Limited – Panel Receives Application**

28 July 2022 – The Panel has received an application from Firetail Resources Limited in relation to its affairs. A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Molopo Energy Limited 03R, 04R & 05R Variation – Variation of Orders**

14 July 2022 – On the application of Aurora Funds Management Ltd as responsible entity for the Aurora Fortitude Absolute Return Fund and Aurora Global Income Trust (Aurora), the Panel has varied the Panel's orders in Molopo Energy Limited 03R, 04R & 05R. Among other things, the orders vested certain shares in Molopo Energy Limited (Molopo) held by Aurora and Keybridge Capital Limited (Keybridge) in ASIC for sale. Molopo's shares were suspended on 27 July 2017 and Molopo was subsequently delisted from the ASX on 1 April 2021. Molopo is currently subject to legal action in the Court of Queen's Bench of Alberta in respect to the joint venture activities of Molopo Energy Canada Limited. The sitting Panel was Michelle Jablko (sitting President), Christian Johnston and Tara Page.

### **Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) 03 – Panel Declines to Conduct Proceedings**

13 July 2022 – The Panel has declined to conduct proceedings on an application dated 4 July 2022 from the board of Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) (Applicants) in relation to the affairs of Moreton. Moreton is a company under various forms of external administration. The Applicants sought interim and final orders, including an order that the appointment of receivers be set aside. The Panel considered that the Applicants had not provided sufficient material to suggest that the Panel had jurisdiction or that any of the circumstances were unacceptable. The Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances. Accordingly, the Panel declined to conduct proceedings. The sitting Panel was Tracey Horton AO (sitting President), John McGlue and David Williamson.

### **Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) 03**

13 July 2022 – The Panel, Tracey Horton AO (sitting President), John McGlue and David Williamson declined to conduct proceedings on an application by the board of Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) in relation to the affairs of Moreton. The application (among other things) sought a final order that the appointment of receivers of Moreton be set aside. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

### **Virtus Health Limited 04R**

8 July 2022 – The Panel, Rory Moriarty, John O'Sullivan (sitting President) and Karen Phin, declined to conduct proceedings on an application by CapVest Partners LLP for review of the decision of the initial Panel to decline to conduct proceedings in Virtus Health Limited 03.

### **Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) 03 – Panel Receives Application**

7 July 2022 – The Panel has received an application from the board of Moreton Resources Limited (in Liquidation) (Receivers Appointed) (Subject to Deed of Company Arrangement) (Applicants) in relation to the affairs of Moreton. A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Keybridge Capital Limited 04, 05 & 06**

5 July 2022 – The Panel, Chelsey Drake, Bruce McLennan and Sharon Warburton (sitting President), varied the final orders made by the sitting Panel in Keybridge Capital Limited 04, 05 & 06. Relevantly, those orders gave persons who accepted into WAM Active Limited’s off-market takeover bid for Keybridge Capital Limited and had their acceptances processed a perpetual withdrawal right. The variation of orders puts an end date on which those withdrawal rights can be exercised.

### **Nex Metals Explorations Ltd 06**

4 July 2022 – The Panel, Elizabeth Hallett (sitting President), Christian Johnston and Robert McKenzie, declined to conduct proceedings on an application by Nex Metals Explorations Ltd in relation to its affairs. Nex Metals is subject to a takeover bid from Metalicity Ltd. The application concerned (among other things) whether new circumstances had arisen (in particular, the fall in the respective share prices of Nex Metals and Metalicity and a rights issue conducted by Metalicity) had rendered Metalicity’s Bidder’s Statement misleading and deceptive (including by omission). The Panel decided not to conduct proceedings after Metalicity provided a supplementary bidder’s statement. The Panel considered that there was no reasonable prospect that it would declare the circumstances unacceptable.

### **Nex Metals Explorations Ltd 05**

1 July 2022 – The Panel, Elizabeth Hallett (sitting President), Christian Johnston and Robert McKenzie, made a declaration of unacceptable circumstances in relation to the affairs of Nex Metals Explorations Ltd. Nex Metals is the subject of an off-market scrip bid by Metalicity Ltd. The Panel considered (among other things) that Nex Metals’ replacement target’s statement in respect of Metalicity’s bid contained information deficiencies and did not disclose a sufficient basis upon which Nex Metals’ directors recommend that shareholders reject the bid. It made final orders, including requiring Nex Metals to prepare and dispatch a supplementary or replacement target’s statement (in a form that ASIC does not object to) that addresses the information deficiencies. It also awarded costs in favour of Metalicity.



## **AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**

### **22-331MR ASIC Consults on Sunsetting Class Orders on Takeovers, Compulsory Acquisitions and Relevant Interests**

30 November 2022 – ASIC has released a consultation proposing to remake nine class orders relating to takeovers, compulsory acquisitions and relevant interests. ASIC proposes to remake these class orders because they are operating effectively and efficiently and continue to form a necessary and useful part of the legislative framework. The fundamental policy principles that underpin the class orders have not changed. ASIC is consulting on a number of minor changes to the instruments to improve the operation of the provisions. These minor changes consider developments and innovations observed in the market over time and address technical issues and anomalies identified in the course of ASIC’s administration of the provisions. ASIC proposes to remake the instruments with a five-year sunset period in order to provide sufficient certainty for industry. ASIC invites submissions from stakeholders on the proposed amendments and as to whether the class orders are currently operating effectively and efficiently. Submissions on CP 365 are due on 23 January 2023. ASIC is seeking feedback on the proposals to remake these instruments if they are not incorporated into the primary law before they are due to expire. On 23 November 2022, the Government introduced the first tranche of legislation to move certain ASIC legislative instruments directly into the primary Acts and regulations. As those instruments approach their end dates, Treasury and ASIC will progressively review the instruments to determine whether the structure and navigability of the law would be improved if the instruments were instead contained in the primary law or regulations.

## **NEW ZEALAND TAKEOVERS PANEL**

### **Christmas Closedown**

12 December 2022 – The Takeovers Panel offices will close from Friday, 23 December 2022, and reopen on Monday, 9 January 2023. While the office is closed, the Panel's Chief Executive Andrew Hudson may be contacted for urgent matters.

### **Rangatira Limited – Exemption Notice 2022**

25 November 2022 - Exemption from rule 6(1) of the Code for the reorganisation of a family trust, exempting: any new trustee, the remaining trustees, a personal representative of the estate of a deceased person, or an upstream party of a personal representative of the estate of a deceased person, and a recipient beneficiary as a result of the buyback, but only to the extent of the approval.

### **Fronde Systems Group Limited – Exemption Notice 2022**

29 September 2022 – Exemption from rule 24(b) of the Code to allow LVP Tech Bidco Limited's full takeover offer to proceed with an offer period shorter than the 20 working day minimum due to the unexpected introduction of an additional public holiday.

### **Takeovers Panel – New Chair and Deputy Chair – Andy Coupe Retires**

29 August 2022 – The Takeovers Panel announces the appointment of a new Chair and Deputy Chair of the Panel. Current Deputy Chair, Carl Blanchard, has been appointed as the new Chair of the Panel, and current Panel member, Anna Buchly, has been appointed Deputy Chair. She has been a Panel member since 2019. Mr Blanchard joined the Panel in 2011 and has been Deputy Chair since 2016. The appointments follow the retirement of long-standing Panel member and former Chair, Andy Coupe. In welcoming the appointments, the Minister of Commerce and Consumer Affairs, Hon Dr David Clark acknowledged the experience and continuity that Mr Blanchard and Ms Buchly would bring to their roles. Three other Panel members, Silvana Schenone, Sacha Judd and Nathanael Starrenburg, have each had their appointments renewed.

## ***TAKEOVER REGULATION PANEL, SOUTH AFRICA***

### **Takeover Regulation Panel Investigation Involving Extract Group Limited, ENX Group Limited, Zarclear Holdings Limited, African Phoenix Investments Limited and Others**

August 2022 – The Panel has received written complaints from certain persons, who each made separate but common allegations relating to the following transactions:

- a) the share repurchase in African Phoenix Investments Limited ("API") by way of a scheme of arrangement for the purposes of de-listing API on or about April 2020;
- b) the general offer involving Peresec Prime Brokers Proprietary Limited and Zarclear Holdings Limited ("Zarclear") on or about September 2020;
- c) the share repurchase by Zarclear, by way of a scheme of arrangement, on or about August 2021;
- d) the mandatory offer in ENX Group Limited on or about April 2022; and
- e) the scheme of arrangement involving API and Zarclear on or about May 2022.

Having considered the complaints, the Executive Director of the Panel determined that these complaints are neither frivolous nor vexatious and give rise to a reasonable suspicion that an infringement of the Takeover Provisions may have occurred in respect of the Transactions. At this stage, no adverse findings have been against any of the impugned parties. On that basis, he appointed Mr Zano Nduli, the Deputy

Executive Director of the Panel, as an inspector in terms of section 209(1)(a) of the Act, to investigate the complaints in terms of Chapter 7 of the Act and then report to him on the outcome of the investigation.

## **SECURITIES COMMISSION MALAYSIA**

### **Breach of subsection 218(2) of the Capital Markets and Services Act 2007 ("CMSA") read together with subparagraph 4.01(a) of the Rules on Take-overs, Mergers and Compulsory Acquisitions ("Rules")**

24 November 2022 – Imposition of sanctions to Ang Hwei Chyn ("Ang HC"), Ang Kim Cheng @ Ang Teng Kok, Cheong Chiew Yoon, Ang Ai Way, Goh Chong Ee, Angson Sdn Bhd, Interasia Sdn Bhd ("Interasia") (collectively known as "Ang Family"), Goh Ah Keen @ Goh Chok Sai and Jumboritz Sdn Bhd ("Jumboritz") (collectively, persons acting in concert Group, "PAC Group").

The PAC Group are persons acting in concert under subsection 216(2) of the CMSA in relation to Multi-Usage Holdings Berhad ("MUHB") pursuant to the financial assistance provided by the Ang Family and Goh Ah Keen to Jumboritz for the subscription of MUHB shares under MUHB's private placement exercise.

The following actions have been taken against the parties for failure to undertake a mandatory take-over offer on MUHB pursuant to the transfer of 27.17% equity interest in MUHB from Topazvest Temasek Sdn Bhd to Interasia on 30 April 2018 which increased the collective shareholdings of the PAC Group to above 33% in MUHB:

- Reprimand;
- Penalty of RM500,000 against the PAC Group collectively; and
- Directive to the PAC Group to reduce their collective holdings in MUHB to not more than 33% within one (1) year from the date of the sanction ("Reduction"). Pending the Reduction, the PAC Group is only allowed to exercise up to 33% of the voting rights in MUHB.

### **Non-compliances of paragraphs 3.01 and 3.05 of the Rules on Take-overs, Mergers and Compulsory Acquisitions and section 221 of the Capital Markets and Services Act 2007**

17 November 2022 – Mercury Securities Sdn Bhd ("Mercury Securities") was reprimanded for non-compliances of paragraphs 3.01 and 3.05 of the Rules on Take-overs, Mergers and Compulsory Acquisitions ("Rules") and section 221 of the Capital Markets and Services Act 2007 ("CMSA") in relation to the conduct of Mercury Securities as the principal adviser for the conditional voluntary take-over offer by AT Engineering Solution Sdn Bhd ("Offeror"), a wholly-owned subsidiary of AT Systematization Berhad ("Ultimate Offeror"), on Asdion Berhad ("Offeree") ("Offer")

As the principal adviser for the Offer, Mercury Securities had not demonstrated that it had used all reasonable effort to ensure that the Offeror and the Ultimate Offeror were provided with appropriate

advice to comply with the Rules and Malaysian Code on Take-overs and Mergers 2016 (“Code”), particularly in relation to –

- (i) ensuring that the Offeror was aware that the Offer must be made to all shareholders and not limited to those shares in issue as at the date of the Notice, where failure to do so was a non-compliance with General Principle 1 of the Code; and
- (ii) ensuring that the Offeror has sufficient financial ability to implement the Offer in full (for possible issuance of new shares) prior to the launch of the Offer, where failure to do so was a non-compliance with General Principle 3 of the Code; and

Mercury Securities had submitted a declaration pursuant to subparagraph 3(f) of Appendix 3 of the Rules in its initial application letter dated 15 March 2022 to the SC which contained a false or misleading statement by confirming that no conflict of interest situation exists or is likely to exist in relation to its role as principal adviser for the Offer, when in fact it was at the material time acting for both the Offeror (as the principal adviser for the Offer) and the Offeree (as the principal adviser and placement agent for the Offeree’s proposed placement of shares).