



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP21/17

Wednesday, 23 June 2021

Sementis Limited – Panel Accepts Undertakings and Declines to Make a Declaration

The Panel has declined to make a declaration of unacceptable circumstances in response to an application dated 25 May 2021 from Dr Glen Harold Burgess in relation to the affairs of Sementis Limited (**Sementis**) (see [TP21/16](#)).

The application concerned Sementis' pro rata entitlement offer to eligible shareholders of 0.6083 new shares for every 1 existing share held at an issue price of \$0.01 per new share to raise up to \$10 million.

The Panel declined to make a declaration of unacceptable circumstances following the acceptance of undertakings from:

- (a) Sementis (see Annexure A) in which it undertook, among other things, to not proceed with the entitlement offer unless or until it has lodged a supplementary or replacement prospectus in relation to the entitlement offer with ASIC (disclosing matters including the financial circumstances of Sementis), extend the closing date of the entitlement offer to a date not less than 10 business days after the lodgement of the supplementary or replacement prospectus and only refuse applications under the shortfall facility where an issue of shares under the shortfall facility would cause a breach of section 606 of the *Corporations Act 2001* (Cth), and
- (b) Fortitude Nominees Pty Ltd (see Annexure B) in which it undertook, among other things, to not apply for, or acquire, any securities under the shortfall facility and to provide to Sementis full details of its intentions with respect to the entitlement offer and the business of Sementis if it obtains a relevant interest in at least 50.1% of the voting shares of Sementis.

The Panel considers that the undertakings sufficiently address the circumstances and that it is not against the public interest to decline to make a declaration of unacceptable circumstances.

The sitting Panel was Bruce Cowley, Marissa Freund and Diana Nicholson (sitting President). The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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ANNEXURE A

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
ACT 2001 (Cth) SECTION 201A UNDERTAKING**

SEMENTIS LIMITED

Sementis Limited ABN 36 138 550 811 (**Sementis**) undertakes to the Takeovers Panel (**Panel**) under section 201A of the *Australian Securities and Investments Commission Act 2001 (Cth)* as follows:

1. Sementis will not proceed with the Entitlement Offer unless or until:
 - (a) the Panel and ASIC have provided written confirmation that they do not object to the Supplementary Disclosure;
 - (b) the Supplementary Disclosure is lodged with ASIC under section 719 of the Corporations Act,
 - (c) the closing date of the Entitlement Offer has been extended to a date not less than 10 Business Days after the Supplementary Disclosure is lodged with ASIC under section 719 of the Corporations Act and provided to shareholders of Sementis.
2. Sementis will obtain and disclose in the Supplementary Disclosure details of Fortitude Nominees' intentions with respect to:
 - (a) participation in the Entitlement Offer; and
 - (b) the business of Sementis if it obtains a relevant interest in at least 50.1% of the voting shares of Sementis, including whether it intends to make any changes to the use of funds program set out in the Replacement Prospectus or change the composition of the board of directors of Sementis, and, in each case, if so, how.
3. The directors of Sementis may only exercise their discretion to alter or supplement the allocation policy in respect of the shortfall facility under the Replacement Prospectus where an issue of Additional New Shares would cause a breach of section 606 of the Corporations Act.
4. In the event that any applications for Additional New Shares are made, Sementis will fill the applications without regard to the concerns of shareholder association unless, in relation to those concerns of shareholder

association, the Panel or a Court has made a finding of association or has made an interim order or injunction.

In this undertaking, the following terms have the following meanings:

Additional New Shares shares issued under the shortfall facility under the Replacement Prospectus.

ASIC Australian Securities and Investments Commission.

Business Day a day that is not a Saturday, Sunday or public holiday in Adelaide, South Australia.

Corporations Act *Corporations Act 2001* (Cth).

Entitlement Offer Sementis' pro-rata entitlement offer of 0.6083 new shares for every one share held by those shareholders registered at 6 May 2021 at an issue price of \$0.01 per share to raise up to \$10,000,000.

Fortitude Nominees Fortitude Nominees Pty Ltd ACN 069 302 889.

Grant the Medical Research Future Fund Grant awarded to the University of South Australia with Sementis' Chief Scientific Officer, Professor John Hayball, as Chief Investigator referred to in an email from Mr Martyn Evans to Sementis shareholders dated 3 April 2021.

Replacement Prospectus the replacement prospectus of Sementis in relation to the Entitlement Offer dated 6 May 2021 and where applicable any subsequent supplementary or replacement prospectus in relation to the Entitlement Offer.

Supplementary Disclosure a supplementary or replacement prospectus lodged under section 719 of the Corporations Act in relation to the Replacement Prospectus which, at least, includes information in relation to:

- (a) the financial circumstances of Sementis, including its funding requirements to remain solvent, and to continue to operate its business in accordance with its disclosed plans, including its actual or proposed contractual commitments;
- (b) the intentions of Fortitude Nominees obtained pursuant to paragraph 2 of this undertaking;
- (c) the shortfall facility as amended by paragraphs 3 and 4 of this undertaking; and

- (d) the nature of the Grant and how this impacts Sementis' business and funding requirements and the disclosed use of funds in the Replacement Prospectus.

**Signed by Martyn John Evans, Chair
with the authority, and on behalf, of
Sementis Limited ABN 36 138 550 811
Dated 21 June 2021**



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ANNEXURE B

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
ACT 2001 (CTH) SECTION 201A UNDERTAKING**

SEMENTIS LIMITED

Fortitude Nominees Pty Ltd ACN 069 302 889 (**Fortitude**) undertakes to the Takeovers Panel that Fortitude will:

1. not apply for, nor acquire, any securities under the shortfall facility described in the Replacement Prospectus;
2. provide full details to Sementis of its intentions with respect to the Entitlement Offer (including the extent that it will subscribe for shares under the Entitlement Offer) and the business of Sementis, if it obtains a relevant interest in at least 50.1% of the voting shares of Sementis, including whether it intends to make any changes to the use of funds program set out in the Replacement Prospectus or change the composition of the board of directors of Sementis, and, in each case, if so, how. To the extent such intentions are qualified as statements of current intention, such a qualification will relate only to new information that is material or material changes in circumstances;
3. consent to the disclosure of this undertaking and the information required to be provided to Sementis under this undertaking in all supplementary and replacement prospectuses in relation to the Entitlement Offer lodged with ASIC after the date of this undertaking.

In this undertaking, the following terms have the following meanings:

Entitlement Offer Sementis' pro-rata entitlement offer of 0.6083 new shares for every one share held by those shareholders registered at 6 May 2021 at an issue price of \$0.01 per share to raise up to \$10,000,000.

Replacement Prospectus the replacement prospectus of Sementis in relation to the Entitlement Offer dated 6 May 2021 and where applicable any subsequent supplementary or replacement prospectus in relation to the Entitlement Offer.

**Signed by Michael Robb Hickinbotham, Director
with the authority, and on behalf, of
Fortitude Nominees Pty Ltd ACN 069 302 889
Dated 22 June 2021**