



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP22/60

Tuesday, 15 November 2022

CD Private Equity Fund II - Panel Declines to Conduct Proceedings

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 (**CD2**).

The application concerned the proposed merger of CD Private Equity Fund 1 (**CD1**), CD2, CD Private Equity Fund III (**CD3**) and CD Private Equity Fund IV (**CD4**) by way of a trust scheme of arrangement proposed by E&P Investments Limited (**E&P**), the responsible entity of each of CD1, CD2, CD3 and CD4.

Among other things, the applicant alleged that E&P had breached its duties under section 601FC of the *Corporations Act 2001* (Cth) by agreeing to and recommending the trust scheme to CD2 unitholders, and that the explanatory memorandum issued to CD2 unitholders in relation to the trust scheme was misleading, including by overstating the potential upsides and understating the potential downsides of the trust scheme (see [TP22/56](#)). E&P denied these allegations.

On 31 October 2022, CD1, CD2, CD3 and CD4 each announced the withdrawal of the trust scheme proposal. In light of this withdrawal, the Panel concluded there was no reasonable prospect that it would make a declaration of unacceptable circumstances as the relevant alleged circumstances ceased to exist upon withdrawal of the trust scheme proposal. Accordingly, the Panel declined to conduct proceedings.

The sitting Panel was Yasmin Allen, Marissa Freund and Ian Jackman SC.

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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